



CITY COUNCIL REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201

May 04, 2021 - 6:00 PM

AGENDA

Please register for Regular City Council Meeting

<https://attendee.gotowebinar.com/register/6382995264411204366>

After registering, you will receive a confirmation email containing information about joining the webinar.

To watch live meetings: https://c.streamhoster.com/embed/media/W6sdC9/xAllQfSsmm0/vpfQhcsApYv_5?preview=1

CALL TO ORDER

Pledge of Allegiance

Roll Call

Civility Invocation

1. Civility Invocation

CONSENT AGENDA

2. Approve Agenda

3. Approve April 20, 2021 Meeting Minutes

4. Approve a Sewer Line Connection Agreement for McFarland Annexation No. 1 to the Town of Poncha Springs

CITIZEN COMMENT—Three (3) Minute Time Limit

PROCLAMATIONS

5. ARBOR DAY OBSERVANCE PROCLAMATION

UNFINISHED BUSINESS / ACTION ITEMS

6. Ordinance 2021-07 AN ORDINANCE APPROVING LOANS FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY (“CWRPDA”) IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,184,000 AND \$241,450; AUTHORIZING THE FORMS AND EXECUTION OF THE LOAN AGREEMENTS AND GOVERNMENTAL AGENCY BONDS TO EVIDENCE SUCH LOANS; AUTHORIZING THE CONSTRUCTION OF A PROJECT; PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY ON SECOND AND FINAL READING. **SECOND READING AND PUBLIC READING**

NEW BUSINESS / ACTION ITEMS

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2630 at least 48 hours in advance.

- 7. RESOLUTION 2021-13** A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO AUTHORIZING A GRANT APPLICATION AND COMMITTING FUNDING FOR STREETScape IMPROVEMENTS TO OAK STREET (SH-291)
- 8. RESOLUTION 2021-14** A RESOLUTION OF THE SALIDA CITY COUNCIL EXTENDING THE AMENDMENT TO THE DECLARATION OF LOCAL STATE OF EMERGENCY TO PROVIDE FOR THE ADMINISTRATIVE FACILITATION OF OUTDOOR DINING AND RETAIL SPACES WITHIN THE CITY'S RIGHTS-OF-WAY AND PUBLIC PLACES, AND TO AUTHORIZE OTHER CERTAIN ACTIONS AS NEEDED
- 9. DECLARATION OF EXTENSION OF STATE OF LOCAL EMERGENCY – COVID-19 ACTION PLAN IMPLEMENTATION**

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Council Reports

- Critelli, Kasper, Pappenfort, Pollock, Shore, Templeton

Mayor Report

Treasurer Report

Attorney Report

Staff Reports

BOCC Report

ADJOURN



City Clerk | Deputy City Clerk

Mayor P.T. Wood

CIVILITY INVOCATION

We are here working together to create a thriving community. It is the intention of the Salida City Council to promote civil communication by adopting the following guidelines for speaking to the public in the City Council Chambers. It is our hope that by acting in this manner we can help create a safe space for people to share their perspectives and opinions:

- We honor the opportunity to be engaged in the process of governance for the benefit of our community.
- We acknowledge that each of us brings a unique perspective to this conversation and that our perspectives may differ.
- We challenge ourselves to value varying points of view and hold all contributions as equally important.
- We understand and accept that while we may sometimes disagree, we can always be courteous and kind.
- We commit to respectful language, avoiding rumor, harsh criticism or personal accusation, even when feeling emotionally charged.
- We will, to best of our ability, speak thoughtfully and listen with attention, respect, and curiosity.
- We are confident that there may be even better solutions than any of us have thought of, which may be discovered through civil conversations.
- We commit to the City of Salida being a hate-free zone and declare and affirm a policy of non-discrimination on the basis of a person's race, color, religion, ancestry, national origin, age, sexual orientation, gender, gender identity, marital status, military or veteran status, socio-economic class, medical condition, or physical or mental disability.



CITY COUNCIL REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201

April 20, 2021 - 6:00 PM

MINUTES

CALL TO ORDER

Pledge of Allegiance

Roll Call

PRESENT

Council Member Alisa Pappenfort

Council Member Dan Shore

Council Member Harald Kasper

Council Member Jane Templeton

Council Member Justin Critelli

Council Member Mike Pollock

Treasurer Merrell Bergin

ABSENT

Mayor PT Wood

Civility Invocation

Council Member Templeton moved to amend the Agenda placing Item 10, Ordinance 2021-07 before Public Comment, Seconded by Council Member Critelli.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

CONSENT AGENDA

Council Member Critelli moved to combine and approve the items on the Consent Agenda, Seconded by Council Member Templeton.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

- 2. Approve Agenda
- 3. Approve April 6, 2021 Meeting Minutes
- 4. **Ordinance 2021-07** AN ORDINANCE APPROVING LOANS FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY (“CWRPDA”) IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,184,000 AND \$241,450; AUTHORIZING THE FORMS AND EXECUTION OF THE LOAN AGREEMENTS AND GOVERNMENTAL AGENCY BONDS TO EVIDENCE SUCH LOANS; AUTHORIZING THE CONSTRUCTION OF A PROJECT; PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY ON SECOND AND FINAL READING, **FIRST READING AND SETTING A PUBLIC HEARING**

Council Member Templeton moved to approve the ordinance on first reading and set a final reading for May 4, 2021, Seconded by Council Member Kasper.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

CITIZEN COMMENT–Three (3) Minute Time Limit

There was no Public Comment.

UNFINISHED BUSINESS / ACTION ITEMS

- 5. **Ordinance 2021-04** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING THE TRANSFER AND CONVEYANCE OF REAL PROPERTY, LOCATED AT THE INTERSECTION OF M STREET AND W. THIRD STREET, FROM THE CITY OF SALIDA TO THE CHAFFEE HOUSING TRUST, AUTHORIZING THE EXECUTION OF CERTAIN AGREEMENTS FOR SAID SALE, AND REPLACING AND SUPERCEDING ORDINANCE 2020-13, **SECOND READING AND PUBLIC HEARING**

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2630 at least 48 hours in advance.

Mayor Pro Tem Shore opened the Public Hearing. Hearing no comment he closed the hearing.

Council Member Critelli moved to approve Ordinance 2021-04 on second reading Seconded by Council Member Pappenfort.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

6. Ordinance 2021-05 AN ORDINANCE OF THE CITY OF SALIDA, COLORADO ANNEXING TO THE CITY OF SALIDA A CERTAIN TRACT OF LAND IN UNINCORPORATED CHAFFEE COUNTY KNOWN AS THE UPCHURCH ANNEXATION, **SECOND READING AND PUBLIC HEARING**

Mayor Pro Tem Shore opened the Public Hearing. Planning Director Bill Almquist entered staff comments into the record. Applicant Tory Upchurch described his vision for the property. Almquist said that additional comment, via emails had been sent to Council before the meeting after the packet had been published. This included a letter from Janie Hayes, with a petition from the Community Equity Coalition with roughly 120 signatures, a letter from Dr. Cheryl Brown Kovacic, Sarah Green, and Ken Matthews in support of the Annexation.

Shore opened Public Comment. He said he would start with individuals that were in the Chamber.

Eileen Rogers, Heather Soderman, Jimmy Bisese, Janie Hayes and Ken Matthews spoke in favor of the ordinance.

Clifford Whitehouse, Ann Daniels, Nancy Stout, Mark Harrold, Charlie Farrell, Paula Farrell, Aaron Huckstep, Larry Metzler, Gabriel Pettus, and James Jacobson spoke against the ordinance.

Shore asked Upchurch if he had a closing statement. He said he was working with the Chaffee Housing Trust on Inclusionary Housing.

Hearing no additional comment he closed the hearing.

Council Member Pappenfort moved to approve the ordinance on second reading, Seconded by Council Member Critelli.

Council Member Kasper moved to amend the motion removing the Short Term Rental section of the agreement. Council Member Pollock Seconded.

Council Member Pollock moved to amend Kasper's amendment to limit the allowance of a Short Term Rental to 5 years after a Certificate of Occupancy was obtained. There was no second.

Council Member Kasper withdrew his amendment.

Returning to the original motion,

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

7. **Resolution 2021-10** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, MAKING FINDINGS OF FACT, DETERMINATIONS, AND CONCLUSIONS CONCERNING THE UPCHURCH ANNEXATION

Council Member Kasper moved to approve the resolution, Seconded by Council Member Templeton.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton, Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

8. **Ordinance 2021-06** AN ORDINANCE OF THE CITY OF SALIDA, COLORADO ZONING CERTAIN REAL PROPERTY KNOWN AS THE UPCHURCH ANNEXATION AS MEDIUM-DENSITY RESIDENTIAL (R-2) ZONE DISTRICT, **SECOND READING AND PUBLIC HEARING**

Mayor Pro Tem Shore opened the Public Hearing. Planning Director Bill Almquist entered staff comments into the record. Applicant Tory Upchurch described the layout for a medium-density residential (R-2) zone district, including a plan to only advertise some properties locally, not on the MLS system.

Shore opened Public Comment. He said he would start with individuals that were in the Chamber.

Read McCulloch, Daniëlle Cook, and Nick Ryder, spoke in favor of the ordinance.

Robert Lienemann, Michelle Pujol, Clifford Whitehouse, Ann Daniels, Kathy Davidoff, Nancy Stout, Stephanie Bradshaw, Dania Pettus, Charlie Farrell, Paula Farrell, Thomas Waters, Aaron Huckstep, James Jacobson, and Larry Metzler spoke against the ordinance.

Kasper moved to extend the meeting until 10:30 p.m., Seconded by Critelli, with all in favor, THE MOTION PASSED.

Shore asked Upchurch if he had a closing statement. He said he was working with the Chaffee Housing Trust on Inclusionary Housing and was committed to selling units to Chaffee residents and keep the listings off of the MLS system, only advertising locally.

Hearing no additional comment he closed the hearing.

Council Member Pappenfort moved to approve the ordinance on second reading, Seconded by Council Member Critelli.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton,
Council Member Critelli,

Voting Nay: Council Member Pollock

THE MOTION PASSED.

9. **Resolution 2021-11** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING AN ANNEXATION AGREEMENT WITH TORY AND CLEE UPCHURCH FOR THE ANNEXATION OF CERTAIN REAL PROPERTY INTO THE CITY.

Council Member Templeton moved to approve the resolution, approving the attached Upchurch Annexation Agreement, with amendments to Section 5.4.8 of the Annexation Agreement, the final form of which to be drafted by the City Attorney, regarding keeping the Chaffee County preferential units off the market, and regarding the requested quarterly updates to the City by the Annexor of this program, Seconded by Council Member Pappenfort.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton,
Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

NEW BUSINESS / ACTION ITEMS

10. **Resolution 2021-12** A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING CITIZEN APPOINTMENTS TO THE HISTORIC PRESERVATION COMMISSION PURSUANT TO SECTION 2-7-10 OF THE SALIDA MUNICIPAL CODE

Council Member Templeton moved to approve the resolution appointing Keith Krebs, Seconded by Council Member Critelli.

Voting Yea: Council Member Pappenfort, Council Member Shore, Council Member Kasper, Council Member Templeton,
Council Member Critelli, Council Member Pollock

THE MOTION PASSED.

COUNCILORS, MAYOR AND CITY TREASURER REPORTS

Critelli thanked Kasper for the reflective feedback given during citizen comment.

Kasper had nothing to report.

Pappenfort had nothing to report.

Shore asked everyone to wish Adam Martinez a happy 44th birthday.

Pollock had nothing to report.

Templeton had nothing to report.

Bergin asked Council to review the Finance Committee'S recent Tax Report.

ADJOURN

Adjourned at 10:23 p.m.



City Clerk | Deputy City Clerk

Mayor P.T. Wood



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021:

AGENDA ITEM NO. Consent Agenda	ORIGINATING DEPARTMENT: Public Works	PRESENTED BY: David Lady
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ITEM: Council Action Approving a Sewer Line Connection Agreement for McFarland Annexation No. 1 in Poncha Springs

BACKGROUND:

McFarland Properties, LLC, the owner of Property recently annexed into the Town of Poncha Springs known as “McFarland Annexation No. 1,” has requested to complete a sewer line connection agreement for the Property, as required to connect to a private service line serving the Property. This Property is located on the western edge of the current corporate boundaries of the Town of Poncha Springs, near the intersection of Highway 50 and US-285, and within Salida’s Wastewater Service Area. A Shell gas station and small café is currently located on the Property.

The intent of this agreement is to allow the owner to connect a private service line located on the Property to an existing sewer main line with sufficient capacity to provide sewer services to the Property.

This Sewer Line Connection Agreement for McFarland Annexation No. 1 has been prepared in accordance with the Salida City Code and requirements set forth in the Salida-Poncha IGAs, as described below.

In accordance with the Salida and Poncha Springs Intergovernmental Agreement for Transfer of Sewer System dated April 6, 2010 (“System IGA”), Salida operates, maintains, and expands its sewer system to accommodate planned growth and development within Poncha Springs planning and zoning jurisdiction.

In accordance with the Salida and Poncha Springs Intergovernmental Agreement for Provision of Sewer Services dated April 6, 2010 (“Service IGA”), Poncha Springs shall not record any final plat for any development within Poncha Springs until the Town has received written confirmation from Salida that the developer/owner has executed a line extension agreement or line connection agreement with Salida or has otherwise applied for an been granted service per the Salida Municipal Code.



VICINITY MAP



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021:

AGENDA ITEM NO. Consent Agenda	ORIGINATING DEPARTMENT: Public Works	PRESENTED BY: David Lady
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FISCAL NOTE:

There are no anticipated budget implications with the approval of this agreement.

STAFF RECOMMENDATION:

Staff recommends approval of this Sewer Line Connection Agreement.

SUGGESTED MOTIONS:

A Council person should make a motion to “combine and approve the items on the consent agenda.”
Followed by a second and then a voice vote.

**SEWER LINE CONNECTION AGREEMENT
(McFarland Annexation No. 1)**

THIS SEWER LINE CONNECTION AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2021, by and between the CITY OF SALIDA, COLORADO, a Colorado statutory city (“Salida”), and **McFarland Properties, LLC**, (“Developer”) (each a “Party” and together the “Parties”).

Section 1 - Recitals

- 1.1 The Developer contends that it is the fee title owner of certain lands known as the “**McFarland Annexation No. 1**” and more particularly described on attached **Exhibit A** (the “Property”).
- 1.2 The Property is located within the current corporate boundaries of the Town of Poncha Springs (“Poncha Springs” or “Town”) and within Salida’s Wastewater Service Plan Area as defined in Section 13-2-20 of the Salida Municipal Code.
- 1.3 This Agreement pertains to the Property, as described on attached **Exhibit A**.
- 1.4 Salida provides sewer service in Poncha Springs pursuant to and in accordance with the terms and conditions of two intergovernmental agreements between Salida and Poncha Springs: the Intergovernmental Agreement for Transfer of Sewer System dated April 6, 2010 (“System IGA”), and the Intergovernmental Agreement for Provision of Sewer Services dated April 6, 2010 (“Service IGA”).
- 1.5 In accordance with the Poncha Springs Land Use Code, the Developer has completed annexation into the Town of Poncha Springs **for McFarland Annexation No. 1** and has obtained approval by the Town Board of a Development Improvements Agreement, executed on March 19, 2021.
- 1.6 Under the System IGA, Salida operates, maintains, and expands its sewer system to accommodate and not inhibit planned growth and development within Poncha Springs’s planning and zoning jurisdiction.
- 1.7 Under the Service IGA, Poncha Springs shall not record any final plat for any development within Poncha Springs until the Town has received written confirmation from Salida that the developer has executed a line extension agreement or line connection agreement with Salida or has otherwise applied for and been granted service per the Salida Municipal Code.
- 1.8 The Property is currently serviced by a Salida sewer line, and the Developer wishes to perform all work necessary to connect to a Salida sewer main (“Sewer Line Connection”), as shown on the Sewer Plans attached as **Exhibit B**.
- 1.9 The Developer and Salida wish to enter into this Agreement in satisfaction of the requirement for a line connection agreement under the Service IGA, and to provide for Salida’s provision of sewer service to **McFarland Annexation No. 1**.

1.10 The Developer and Salida acknowledge that the terms and conditions hereinafter set forth are reasonable, within the authority of each to perform, and consistent with the System IGA and the Service IGA.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, Salida and the Developer agree as follows:

Section 2 – Definitions

As used in this Agreement, the following terms have the following meanings:

- 2.1 “Agreement” means this Sewer Line Connection Agreement. The Recitals in Section 1 above are fully incorporated into this Agreement and made a part hereof by this reference.
- 2.2 “Appurtenant Sewer Service Lines” means all service lines and laterals necessary to deliver wastewater from the Property into the Sewer Main(s).
- 2.3 “City” means the City of Salida, a Colorado statutory city.
- 2.4 “City Administrator” means the City Administrator of the City of Salida, Colorado, and the City Administrator’s designee.
- 2.5 “City Council” means the City Council of the City of Salida, Colorado.
- 2.6 “Developer” means **McFarland Properties, LLC**, and its successor(s).
- 2.7 “Development” means all work on the Property required to accomplish construction and installation of the Sewer Line Connection. When the context so dictates, the verb “Develop” may be used in place of the noun “Development.”
- 2.8 “Effective Date” means the date on which City Council approved the execution of this Agreement. On the Effective Date, this Agreement will become binding upon and enforceable by Salida and the Developer.
- 2.9 “Property” means the land that is known as the “**McFarland Annexation No. 1**” and described in attached **Exhibit A**.
- 2.10 “Reimbursable Costs and Fees” means all fees and costs incurred by Salida in connection with Salida’s processing and review of the Public Improvements, and Salida’s drafting, review, and execution of this Agreement.
- 2.11 “Required Improvements” means the improvements that the Developer is required to make to the Property to connect the existing sewer main line to a private service line to be located on the Property and to provide service to Property, including all Appurtenant Sewer Service Lines, consistent with and in compliance with the final plat approval and with the construction plans and drawings submitted to Salida and Poncha Springs for review and approval.

- 2.12 “Salida Municipal Code” means the City of Salida Municipal Code, as amended.
- 2.13 “Service IGA” means the Intergovernmental Agreement for Provision of Sewer Services made by and between the City of Salida and the Town of Poncha Springs on April 6, 2010.
- 2.14 “Sewer Line Connection” means the connection to be constructed by the Developer on the Property as shown on **Exhibit B**, to allow the Developer to connect a private service line located on the Property to an existing sewer main line with sufficient capacity to enable Salida to provide sewer service to the Property.
- 2.15 “System IGA” means the Intergovernmental Agreement for Transfer of Sewer System made by and between the City of Salida and the Town of Poncha Springs on April 6, 2010.
- 2.16 “Town” means the Town of Poncha Springs.

Section 3 – Purpose of Agreement and Binding Effect

- 3.1 Contractual Relationship. The purpose of this Agreement is to establish a contractual relationship between Salida and the Developer with respect to the provision of sewer service to the Property. The terms, conditions, and obligations described herein are contractual obligations of the Parties, and the Developer waives any objection to the enforcement of the terms of this Agreement as contractual obligations.
- 3.2 Binding Agreement and Covenant Running with the Land. This Agreement benefits and is binding upon Salida, the Developer, and the Developer’s successor(s). The Developer’s obligations under this Agreement constitute a covenant running with the Property.
- 3.3. Reservation. Notwithstanding anything to the contrary herein, and to the extent that Salida becomes aware of new information with respect to the Property or the Sewer Line Connection following execution of this Agreement, Salida reserves the right to require new terms or conditions for the Required Improvements or new obligations for the Developer with respect to such improvements.

Section 4 – Connection to Sewer Line and Provision of Sewer Service

- 4.1 Provision of Sewer Service. Salida approval of individual sewer taps and sewer service to lots on Property will be dependent on the capacity of downstream infrastructures at the time of an Application for Service within the Service Plan Areas (Salida Municipal Code, Section 13-2-30), as set forth in the Salida Sewer Collection System Build-Out Infrastructure Plan completed by Providence Infrastructure Consultants dated November 13, 2019 (“Plan”), or subsequent updated plans or data that may supersede it, as accepted and approved by the Salida City Council serving in its capacity as the governing body of the wastewater enterprise, and the Developer agrees that it will construct and install the Required Improvements, including, without limitation, all Appurtenant Sewer Services Lines, only in accordance with the terms of this Agreement, the System IGA and the Service IGA.

- 4.2 Salida agrees to provide sewer service to the Property, and the Developer agrees that it will construct and install the Required Improvements, only in accordance with the terms and conditions of this Agreement, the System IGA, and the Service IGA, and with the following:
- 4.2.1 All requirements of the Town Code and the Town's Subdivision Approval Ordinance;
 - 4.2.2 All requirements of the Salida Municipal Code;
 - 4.2.3 The City of Salida's Standard Specifications for Construction, as amended;
 - 4.2.4 The City of Salida Department of Public Works' Design Criteria Manual for Water, Sewer, and Streets, as amended;
 - 4.2.5 The Town's applicable engineering standards for construction and installation of the Required Improvements, including without limitation standards for compaction in trenches, under pavement, under sidewalks, at valve boxes, and around manholes; and
 - 4.2.6 All other applicable laws and regulations, including without limitation all Town Ordinances and regulations, all State statutes and regulations, and all Federal laws and regulations.
- 4.3 The Developer acknowledges and agrees that in accordance with paragraph 1.c of the Service IGA and in accordance with the Salida Municipal Code, Salida is and will be under no obligation to provide sewer service to the Property until the Required Improvements required hereunder have been completed and accepted by Salida; and that in accordance with paragraph 1.d of the Service IGA, Salida will have no obligation to provide sewer service to the Property until Salida has formally approved and accepted the Required Improvements and has confirmed in writing to Poncha Springs that all terms and conditions of the System IGA and the Service IGA have been complied with to Salida's satisfaction.
- 4.4 The Developer acknowledges and agrees that in accordance with paragraphs 5.c and 5.d of the System IGA, Salida may impose special assessments within its sewer service area to fund specific improvements and upgrades as may be necessary from time to time, and that such special assessments may be imposed following the Effective Date.

Section 5 – Terms and Conditions for Sewer Line Connection and Provision of Sewer Service

- 5.1 Other Applicable Laws and Regulations. All terms and conditions imposed by this Agreement are in addition to and not in place of any and all requirements of the System IGA, the Service IGA, the Salida Municipal Code, and all other applicable laws and regulations, including without limitation all Town Ordinances and regulations, all State statutes and regulations, and all Federal laws and regulations.

- 5.2 Submittals to and Approvals by City Administrator. Unless this Agreement specifically provides to the contrary, all submittals to Salida in connection with this Agreement must be made to the City Administrator. In addition, unless this Agreement specifically provides to the contrary, the City Administrator and/or City Council must provide all approvals required of the City in connection with this Agreement.
- 5.3 Limitations on Wastewater Delivered Through Sewer Line Connection. The Developer acknowledges and agrees that Salida's obligation to provide sewer service to the Property is contingent upon the Developer's construction and installation, and Salida's written approval pursuant to paragraph 5.10 below, of the Required Improvements.
- 5.4 Salida approval of individual sewer taps and sewer service to lots on the Property will be dependent on the capacity of downstream infrastructures at the time of application, as determined by and in the context of the Salida Sewer Collection System Build-Out Infrastructure Plan completed by Providence Infrastructure Consultants dated November 13, 2019 ("Plan"), or subsequent updated plans that may supersede it, as accepted and approved by the Salida City Council serving in its capacity as the governing body of the wastewater enterprise. The depth of flow to diameter of pipe ratio ("d/D") capacity threshold of .8 (the maximum Colorado Department of Public Health ("CDPHE") allowable d/D ratio at peak flow) is currently identified in the Plan as a Flow Rate (GPM) of 615 (Plan, Table 4, Technical Memo 7).
- 5.5 Final Acceptance Not a Warranty that Sewer Service Will be Available. Regardless of final written acceptance of the Public Improvements by Salida, such acceptance shall not constitute a warranty or promise by Salida to provide sewer services, if the capacity of the sewer system does not allow for the provision of such service. Salida approval of individual sewer taps and sewer service to lots on the Property will be dependent on the capacity of downstream infrastructures at the time of application, as determined by and in the context of the Plan, or subsequent updated plans or data that may supersede it, as accepted and approved by the Salida City Council serving in its capacity as the governing body of the wastewater enterprise.
- 5.6 Required Improvements. Attached **Exhibit C** provides a detailed list of the Required Improvements for which the Developer is responsible under the Town's final plat approval of the Property.
- 5.5.1 In accordance with paragraph 1.d of the Service IGA, Salida agrees to perform all necessary inspections and, when appropriate, to provide required written confirmations in a timely fashion and within the time limitations, if any, imposed on Poncha Springs for inspecting the Required Improvements.
- 5.6 Prior Approval of Plans for Sewer Line Connection. Before the Developer commences construction or installation of the Required Improvements, the Salida Public Works Director or City Engineer must review and approve the drawings and plans for such improvements, which drawings and plans must be stamped by the engineer retained by the Developer.

- 5.7 Construction Standards. The Developer shall ensure that all construction is performed in accordance with this Agreement, industry standards, and Salida's rules, regulations, requirements, and criteria governing such construction.
- 5.8 Observation of Development and Inspection of Required Improvements. Salida may observe all Development on the Property, and may inspect and test and/or require the Developer's qualified professional consultant(s) to inspect and test each component of the Required Improvements.
- 5.8.1 The Developer shall hire a qualified geotechnical consultant to provide quality assurance testing during the construction and installation of the Public Improvements, and shall deliver to Salida copies of all test reports.
- 5.8.2 The Developer shall hire a professional engineering consultant to provide construction management and inspections during the construction and installation of the Required Improvements, and to stamp the drawings and plans for the Required Improvements before such drawings and plans are reviewed and approved by the Salida Public Works Director or City Engineer pursuant to paragraph 5.5 above.
- 5.8.3 The Developer shall reimburse Salida for any and all costs associated with Salida's observation of Development on the Property and inspection and testing of the Required Improvements, and Salida will not give its written approval of the Public Improvements, as described in paragraph 5.10 below, until such costs, if any, have been reimbursed. Such observation and inspection may occur at any point before, during, or upon completion of construction and installation.
- 5.9 Salida's Written Approval of Required Improvements. Upon the Developer's request, the Salida Public Works Director or City Engineer shall inspect the Required Improvements to ascertain whether they have been completed in conformity with the approved plans and specifications. The Salida Public Works Director or City Engineer shall confirm in writing the date on which all Required Improvements have been completed in conformity with the approved plans and specifications. The Developer shall make all corrections necessary to bring the Required Improvements into conformity with the approved plans and specifications.
- 5.10 Final Acceptance of Required Improvements. Upon completion of the Required Improvements, Salida shall issue its final written acceptance of the Required Improvements.
- 5.11 Inspection Distinguished from Approval. A Salida official's inspection and/or verbal approval of the Development, at any particular time, will not constitute Salida's approval of the Required Improvements as required hereunder. Such written approval will be given by the City only in accordance with paragraph 5.10 above.

- 5.12 Compliance with Environmental Laws. During Development, the Developer shall comply with all Federal and State environmental protection and anti-pollution laws, rules, regulations, orders, or requirements, including without limitation the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response Compensation and Liability Act.

- 5.13 Reimbursable Costs and Fees. The Developer shall pay to Salida the fees described below at the time set forth below:
 - 5.13.1 The Developer shall reimburse Salida for all fees and actual costs incurred by Salida in connection with Salida’s processing and review of the proposed Required Improvements, including without limitation Salida’s review of the Developer’s Subdivision Improvements Agreement with Poncha Springs and supporting documentation; and Salida’s drafting, review, and execution of this Agreement (“Reimbursable Costs and Fees”). The Reimbursable Costs and Fees include but are not limited to Salida’s costs incurred for engineering, surveying, and legal services, including the services of outside City consultants and/or counsel; recording fees; printing and publication costs; and any and all other reasonable costs incurred by Salida in connection with processing and review of the proposed Public Improvements.

 - 5.13.2 Reimbursable Costs and Fees attributable to work completed by City staff, not including the City Attorney, will be determined based on the fee schedule attached to Salida’s then-effective Open Records Policy. The fee schedule attached to the Open Records Policy in effect as of the date of this Agreement is attached as **Exhibit D**.

 - 5.13.3 Reimbursable Costs and Fees attributable to work completed by the City Attorney or by Salida’s outside consultants and/or counsel will be equal to the actual costs and fees billed to and paid by Salida for that work.

 - 5.13.4 Interest will be imposed at rate of 1.5% per month on all balances not paid to Salida within 30 days of the effective date of Salida’s invoicing of the Developer for the Reimbursable Costs and Fees, with that effective date determined in accordance with the notice provisions of paragraph 10.6 below. In addition to any and all remedies available to Salida and in the event Salida is forced to pursue collection of any amounts due and unpaid under this provision or under this Agreement, Salida shall be entitled to collect attorneys’ fees and costs incurred in said collection efforts in addition to the amount due and unpaid.

Section 6 – Default by Developer and Salida’s Remedies

- 6.1 Salida’s Remedies on Developer’s Default. In the event of the Developer’s default with respect to any term or condition of this Agreement, Salida may take any action necessary or appropriate to enforce its rights, including without limitation any or all of the following:

- 6.1.1 Suspension of all further activities and approvals related to the Required Improvements.
- 6.1.2 Any other remedy available in equity or at law.
- 6.2 Notice of Default. Consistent with Section 16-2-60(o) of the Salida Municipal Code, before taking remedial action hereunder, Salida shall give written notice to the Developer of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default has not been cured within thirty days of receipt of the notice or the date of any hearing before the City Council, whichever is later, Salida will consider whether the Developer has undertaken reasonable steps to timely complete the cure if additional time is required.
- 6.3 Jurisdiction and Venue. The District Court of the County of Chaffee, State of Colorado, will have exclusive jurisdiction to resolve any dispute over this Agreement.
- 6.4 Waiver. Any waiver by Salida of one or more terms of this Agreement will not constitute, and is not to be construed as constituting, a waiver of other terms. A waiver of any provision of this Agreement in any one instance will not constitute, and is not to be construed as constituting, a waiver of such provision in other instances.
- 6.5 Cumulative Remedies. Each remedy provided for in this Agreement is cumulative and is in addition to every other remedy provided for in this Agreement or otherwise existing at law or in equity.

Section 7 – Indemnification and Release

- 7.1 Release of Liability. The Developer acknowledges that Salida cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Salida Municipal Code, City Ordinances, and the laws of the State of Colorado. The Developer further acknowledges that it acts at its own risk with respect to relying or acting upon any representation or undertaking by Salida or its officers or agents or their designees. Accordingly, the Developer expressly waives and releases any current or future claims related to or arising from any such representation or undertaking by Salida or its officers or agents or their designees.
- 7.2 Indemnification.
 - 7.2.1 The Developer shall indemnify and hold harmless Salida, and Salida's officers, agents, employees, and their designees, from and against any and all claims, damages, losses, and expenses, including but not limited to attorneys' fees and costs, arising from or in connection with the following: (a) acts or omissions by the Developer or its officers, employees, agents, consultants, contractors, or subcontractors in connection with this Agreement; (b) Salida's required disposal of hazardous substances, pollutants, or contaminants; required cleanup necessitated by leaking underground storage tanks, excavation, and/or backfill of hazardous substances, pollutants, or contaminants; or environmental cleanup responsibilities

of any nature whatsoever on, of, or related to the Property or the construction and installation of the Public Improvements; provided that such disposal or cleanup obligations do not arise from any hazardous substance, pollutant, or contaminant generated or deposited by Salida upon the Property or the Public Improvements; or (c) any other item contained in this Agreement.

- 7.2.2 The Developer shall reimburse Salida for all fees, expenses, and costs, including attorneys' fees and costs, incurred in any action brought against Salida as a result of Salida's approval of the Public Improvements; and shall reimburse Salida for all fees, expenses, and costs, including attorneys' fees and costs, associated with any referendum election, review of petition for referendum, protest, or any other proceedings to challenge Salida's approval of the Public Improvements. Nothing in this Agreement obligates or compels Salida to proceed with any action or referendum position.
- 7.2.3 Fees, expenses, and costs attributable to work completed by Salida staff, not including the City Attorney, will be determined based on the fee schedule attached to Salida's then-effective Open Records Policy. The fee schedule attached to the Open Records Policy in effect as of the date of this Agreement is attached as **Exhibit D**.
- 7.2.4 Fees, expenses, and costs attributable to work completed by the City Attorney or by Salida's outside consultants and/or counsel will be equal to the actual costs and fees billed to and paid by Salida for that work.

Section 8 – Representations

- 8.1 **Developer's Representations.** The Developer represents to Salida that the following are true and correct as of the date of the Developer's execution of this Agreement and will be true and correct as of the Effective Date:
- 8.1.1 **Authority.** This Agreement has been duly authorized and executed by the Developer as a legal, valid, and binding obligation of the Developer, and is enforceable as to the Developer in accordance with its terms.
- 8.1.2 **Authorized signatory.** The person executing this Agreement on behalf of the Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of the Developer.
- 8.1.3 **No litigation or adverse condition.** To the best of the Developer's knowledge, there is no pending or threatened litigation, administrative proceeding, or other claim pending or threatened against the Developer that, if decided or determined adversely, would have a material adverse effect on the ability of the Developer to meet its obligations under this Agreement; nor is there any fact or condition of the Property known to the Developer that may have a material adverse effect on the Developer's ability to Develop the Property as contemplated under the approved final plat.

- 8.1.4 Compliance with environmental laws and regulations. To the best of the Developer's knowledge, the Public Improvements and associated easements to be conveyed to Salida hereunder are in compliance with all Federal and State environmental protection and anti-pollution laws, rules, regulations, orders, or requirements, including without limitation the Clean Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response Compensation and Liability Act.
- 8.1.5 No conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement, or obligation to which the Developer is a party or by which the Developer is bound or affected.
- 8.2 Salida's Representations and Warranties. Salida represents and warrants to the Developer that the following are true and correct as of the date of Salida's execution of this Agreement and will be true and correct as of the Effective Date:
- 8.2.1 Authority. Upon execution, this Agreement will have been duly authorized by City Council as a legal, valid, and binding obligation of Salida, and is enforceable as to Salida in accordance with its terms.
- 8.2.2 Authorized signatory. The person executing this Agreement on behalf of Salida is duly authorized and empowered to execute this Agreement on behalf of Salida.
- 8.2.3 No conflict. Neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement, or obligation to which Salida is a party or by which Salida is bound or affected.

Section 9 – General Provisions

- 9.1 Waiver of Defects. In executing this Agreement, the Developer waives all objections it may have to any defects in the form or execution of this Agreement concerning the power of Salida to impose conditions on the Developer as set forth herein. The Developer further waives all objections it may have to the procedure, substance, and form of any Ordinances or resolutions authorizing or adopting this Agreement.
- 9.2 Final Agreement. This Agreement supersedes and controls all prior written and oral agreements and representations of the Parties with respect to the subject hereof, and is the total integrated agreement between the Parties with respect to that subject.
- 9.3 Modifications. This Agreement may be modified only by a subsequent written agreement executed by both Parties.
- 9.4 Voluntary Agreement. The Developer agrees to comply with all of the terms and conditions of this Agreement on a voluntary and contractual basis.

herein are to be deemed to be incorporated into this Agreement and made a part hereof for all purposes.

9.14 Counterparts. This Agreement may be executed in multiple counterparts, all of which taken together constitute one and the same document.

WHEREFORE, the Parties have executed duplicate originals of this Agreement on the day and year first written above.

CITY OF SALIDA, COLORADO

By:

P.T. Wood, Mayor

ATTEST:

City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF)

Acknowledged, subscribed, and sworn to before me this _____ day of _____ 2021, by P.T. Wood, as Mayor, and by Erin Kelley, as Clerk, on behalf of the City of Salida, Colorado.

WITNESS my hand and official seal.

My Commission expires: _____.

Notary Public

MCFARLAND PROPERTIES, LLC

By:

Name: Randy McFarland
Title: President

STATE OF COLORADO)
) ss.
COUNTY OF)

Acknowledged, subscribed, and sworn to before me this _____ day of _____ 2021 by _____.

WITNESS my hand and official seal. My Commission expires: _____.

Notary Public

Proclamation

DECLARING MAY 13TH AS ARBOR DAY

Whereas, in 1872, the Nebraska Board of Agriculture established a special day to be set aside for the planting of trees; and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

Whereas, Arbor Day is now observed throughout the nation and the world; and

Whereas, trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, producing life-saving oxygen, and providing habitat for wildlife; and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

Whereas, trees – wherever they are planted – are a source of joy and spiritual renewal.

Now, therefore, the City of Salida does hereby proclaim May 13, 2021, as ARBOR DAY in the City of Salida, and we urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, we urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

P.T. Wood, Mayor

Date



CITY COUNCIL ACTION FORM

Department Finance	Presented by Aimee Tihonovich - Finance Director	Date May 4, 2021
Public Works	David Lady – Public Works Director	

ITEM

Second reading of Ordinance 2021-07 and public hearing: An ordinance approving loans from the Colorado Water Resources and Power Development Authority (“CWRPA”).

BACKGROUND

The City of Salida has planned and budgeted for improvements at the Pasqualle Water Treatment Plant Site as well as the Gallery Water Treatment Plant transmission main piping titled the Low Zone Water Line Replacement Project. Design, environmental, regulatory clearances, and other due diligence has been underway for these projects. These improvements are proposed to be funded through a low interest Direct Loan (1.5%) in the amount of \$4,184,000 provided through the Colorado Water Resources and Power Development Authority (CWPRDA). This funding mechanism has been utilized for other large water projects within the City. The City was also in recipient of receiving a principal forgiveness loan for the Design and Engineering (D&E) component of the project in the amount of \$241,450.00.

The approval of the Direct Loan and D&E Principal Forgiveness Loan through Ordinance 2021-07 will allow for the execution of the construction contracts and completion of the work activities. The first reading of Ordinance 2021-07 was approved on April 20, 2021.

FISCAL NOTE

A budget allocation is included in the 2021 budget under the Water/Wastewater Enterprise Fund and listed as:

- \$1,900,000 - New Water Lines and other Infrastructure (20-30-6018-3)
- \$2,000,000 – Infrastructure Improvements (20-34-6024-3)
- \$45,000 – General Engineering (20-30-5233-0)
- \$175,000 – General Engineering (20-34-5233-0)

STAFF RECOMMENDATION

Staff is recommending approval of the second reading of Ordinance 2021-07.

SUGGESTED MOTION

A Council member should make the motion to “Approve second reading of Ordinance 2021-07.”

CITY OF SALIDA, COLORADO

ORDINANCE NO. 2021-07

AN ORDINANCE APPROVING LOANS FROM THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY (“CWRPDA”) IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,184,000 AND \$241,450; AUTHORIZING THE FORMS AND EXECUTION OF THE LOAN AGREEMENTS AND GOVERNMENTAL AGENCY BONDS TO EVIDENCE SUCH LOANS; AUTHORIZING THE CONSTRUCTION OF A PROJECT; PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY ON SECOND AND FINAL READING.

WHEREAS, the City of Salida (the “City”), in the County of Chaffee and State of Colorado, is a political subdivision of the State of Colorado (the “State”), duly organized and existing as a statutory city under the laws of the State; and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected and qualified; and

WHEREAS, the City has acted pursuant to Article X, Section 20 of the Colorado Constitution (TABOR) and Ordinance No. 20 (Series of 1996) (the “Enterprise Ordinance”) duly enacted by the City Council and codified as Article D of Chapter 5, Title 7, of the Salida City Code (the “Code”), to create a water activity enterprise (the “Enterprise”) to operate the municipal water and sewer systems serving the inhabitants of the City (the “System”); and

WHEREAS, under the Enterprise Ordinance, the Council acts as the governing body of the Enterprise; and

WHEREAS, the Enterprise presently qualifies as an “enterprise” for purposes of TABOR; and

WHEREAS, the Council, acting by and through the Enterprise, has heretofore determined the need to replace water transmission mains and improvements at the treatment plant, including replacement of pump station and disinfection facilities and other water and/or wastewater

improvements (as further described and defined in the Direct Loan Agreement (defined herein), the “Project”); and

WHEREAS, the City has made application to the Colorado Water Resources and Power Development Authority (the “CWRPDA”), a body corporate and political subdivision of the State of Colorado, for a loan or loans to finance all or a portion of the cost of the Project; and

WHEREAS, the Council has determined that in order to finance all or a portion of the cost of the Project, it is necessary and advisable and in the best interests of the City (i) to enter into a loan agreement with CWRPDA (the “Direct Loan Agreement”), pursuant to which CWRPDA shall loan the City an amount of not to exceed \$4,184,000 at 1.50% interest (the “Direct Loan”) for such purposes, and (ii) to issue a governmental agency bond (the “Direct Loan Bond”) to CWRPDA to evidence the City’s repayment obligations under the Direct Loan Agreement; and

WHEREAS, the Council has further determined that in order to finance all or a portion of the cost of the Project, it is necessary and advisable and in the best interests of the City (i) to enter into a loan agreement with CWRPDA (the “Design & Engineering Loan Agreement” and together with the Direct Loan Agreement, the “Loan Agreements”), pursuant to which CWRPDA shall loan the City an amount of not to exceed \$241,450 without any interest and with the principal to be forgiven by the CWRPDA (the “Design & Engineering Loan” and together with the Direct Loan, the “Loans”) for such purposes, and (ii) to issue a governmental agency bond (the “Design & Engineering Bond” and together with the Direct Loan Bond, the “Bonds”) to CWRPDA evidencing the City’s obligations under the Design & Engineering Loan Agreement; and

WHEREAS, TABOR requires an election to incur any multiple fiscal year obligation unless such obligation is incurred for an enterprise; and

WHEREAS, under TABOR, the Enterprise is a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined; and

WHEREAS, in 2020, the System, as operated by the Enterprise, received grants from all Colorado state and local governments combined which were less than 10% of the annual revenue of the System; and

WHEREAS, the Council serves as the governing body of the Enterprise; and

WHEREAS, there have been presented to the Council the forms of the Direct Loan Agreement, the Direct Loan Bond, the Design & Engineering Loan Agreement and the Design & Engineering Bond (collectively, the “Financing Documents”); and

WHEREAS, the Direct Loan Bond and the Direct Loan Agreement shall constitute revenue obligations of the City, payable from the Net Revenues of the System (as defined in the Loan Agreements); and

WHEREAS, the City has heretofore issued a governmental agency bond to the Colorado Water Resources and Power Development Authority to evidence a loan (the “2011 Loan”) made pursuant to a Loan Agreement dated as of December 21, 2011 (the “2011 Loan Agreement”), and has issued two series of bonds, its City of Salida, Colorado, Water and Wastewater Activity Enterprise Water and Sewer Revenue Bond, Series 2013 (the “2013 Bonds”), its City of Salida, Colorado Water and Wastewater Enterprise Revenue Refunding Bond, Series 2016 (the “2016 Bonds”), and a governmental agency bond to the Colorado Water Resources and Power Development Authority to evidence a loan (the “2017 Loan”) made pursuant to a Loan Agreement dated as of February 28, 2017 (the “2017 Loan Agreement”) (collectively, the “Prior Bonds”), all secured by a pledge of the Net Revenues of the System; and

WHEREAS, except for the Prior Bonds, the City has not pledged nor hypothecated the net revenues derived or to be derived from the operation of the System, or any part thereof, to the payment of any bonds or for any other purpose, with the result that the net revenue may now be pledged lawfully and irrevocably to the payment of the Direct Loan Bond; and

WHEREAS, the City is not delinquent in the payment of any principal or interest requirements under the Prior Bonds; and

WHEREAS, pursuant to Title 31, Article 35, Part 4, C.R.S. (the “Sewer and Water Systems Act”) and the Enterprise Act, the Financing Documents may be approved by the Council without an election; and

WHEREAS, the forms of the Financing Documents are on file with the City Clerk; and

WHEREAS, the Council desires to approve the form of the Financing Documents and other documents referenced therein, authorize the execution of the Loan Agreement, and authorize the execution and delivery of the Bond; and

WHEREAS, pursuant to Section 31-16-105, C.R.S., because of the urgent need for the financing of the Project and the limited availability of low or no interest loans, the Council has determined that an emergency exists and that adoption of this Ordinance as an emergency measure on second and final reading is necessary for the immediate preservation of the public peace, health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, ORDAINS:

Section 1. Determinations. The Council hereby finds and determines that the Enterprise constitutes an enterprise under TABOR.

Section 2. Approvals, Authorizations, and Amendments. The forms of the Financing Documents presented at this meeting are incorporated herein by reference and are hereby approved. The City shall enter into and perform its obligations under the Financing Documents in the forms of such documents, with such changes as are not inconsistent herewith and as are hereafter approved by the Mayor of the City (the “Mayor”). The Mayor and City Clerk are hereby authorized and directed to execute the Financing Documents and to affix the seal of the City thereto, and further to execute and authenticate such other documents or certificates as are deemed necessary or desirable in connection therewith. The Financing Documents shall be executed in substantially the forms approved at this meeting.

The execution of any instrument or certificate or other document in connection with the matters referred to herein by the Mayor, the City Manager, and City Clerk or by other appropriate officers of the City, shall be conclusive evidence of the approval by the City of such instrument.

Section 3. Election to Apply the Supplemental Act. Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S. (the “Supplemental Act”) provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act. The City hereby elects to apply all of the provisions of the Supplemental Act to the Financing Documents.

Section 4. Delegation.

(a) Pursuant to Section 11-57-205 of the Supplemental Act, the City hereby delegates to the Mayor or the City Administrator the independent authority to make the following

determinations relating to and contained in the Direct Loan Agreement and the Direct Loan Bond, subject to the restrictions contained in paragraph (b) of this Section 4:

- i. The interest rate on the Direct Loan;
- ii. The principal amount of the Direct Loan;
- iii. The amount of principal of the Direct Loan maturing in any given year and the final maturity of the Direct Loan;
- iv. The dates on which the principal of and interest on the Direct Loan are paid; and
- v. The existence and amount of reserve funds for the Direct Loan, if any.

(b) The delegation in paragraph (a) of this Section 4 shall be subject to the following parameters and restrictions:

- i. The interest rate on the Direct Loan shall not exceed 1.50%;
 - ii. The principal amount of the Direct Loan shall not exceed \$4,184,000;
- and
- iii. The final maturity of the Direct Loan shall not be later than December 31, 2055.

Section 5. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, the Direct Loan Bond and the Direct Loan Agreement shall contain recitals that the Direct Loan Bond is issued pursuant to certain provisions of the Supplemental Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Direct Loan Bond after its delivery for value.

Section 6. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby ratified, approved, and confirmed.

Section 7. Pledge of Revenues. The creation, perfection, enforcement, and priority of the pledge of revenues to secure or pay the Direct Loan Bond and the Direct Loan Agreement provided herein shall be governed by Section 11-57-208 of the Supplemental Act and this Ordinance. The amounts pledged to the payment of the Direct Loan Bond and the Direct Loan Agreement shall immediately be subject to the lien of such pledge without any physical delivery,

filing, or further act. The lien of such pledge shall have the priority described in the Direct Loan Agreement. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the City irrespective of whether such persons have notice of such liens.

Section 8. Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Act, no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the Financing Documents shall be commenced more than thirty days after the issuance of the Bonds.

Section 9. Limited Obligation; Special Obligation. The Direct Loan Agreement and Direct Loan Bond are payable solely from the Pledged Revenues (as defined in the Direct Loan Agreement), and the Direct Loan Agreement and Direct Loan Bond do not constitute a debt within the meaning of any constitutional or statutory limitation or provision.

No elected or appointed officers or agents of the City shall be subject to any pecuniary liability in connection with any agreement, covenant, or undertaking by the City, or by them, contained in any document executed in connection with the authorization, execution, and delivery of the Financing Documents or this Ordinance or with respect to any action taken or omitted to be taken in good faith with reference thereto.

Section 10. Disposition and Investment of Loan Proceeds. The proceeds of the Loans shall be applied to pay the costs and expenses of acquiring, constructing and equipping the Project, including costs related thereto and, to the extent permitted under federal tax laws, reimbursement to the City for capital expenditures heretofore incurred and paid from City funds in anticipation of the incurrence of long-term financing therefor, and all other costs and expenses incident thereto, including without limitation the costs of obtaining the Loans. Neither CWRPDA nor any subsequent owner(s) of the Loan Agreements shall be responsible for the application or disposal by the City or any of its officers of the funds derived from the Loans. In the event that all of the proceeds of the Loans are not required to pay such costs and expenses, any remaining amount shall be used for the purpose of paying the principal amount of the Loans and the interest thereon, as applicable.

Section 11. City Representative. Pursuant to Exhibits B of the Loan Agreements, the Mayor, the City Administrator and the City Clerk are hereby designated as the Authorized

Officers (as defined in the Loan Agreements) for the purpose of performing any act or executing any document relating to the Loans, the City, or the Financing Documents. A copy of this Ordinance shall be furnished to CWRPDA as evidence of such designation.

Section 12. Estimated Life of Improvements. It is hereby determined that the estimated life of the Project to be financed with the proceeds of the Direct Loan is not less than the final maturity of the Direct Loan.

Section 13. Direction to Take Authorizing Action. The appropriate officers of the City and members of the Council are hereby authorized and directed to take all other actions necessary or appropriate to effectuate the provisions of this Ordinance, including but not limited to such certificates and affidavits as may reasonably be required by CWRPDA.

Section 14. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and members of the Council, not inconsistent with the provisions of this Ordinance, relating to the Financing Documents, or actions to be taken in respect thereof, are hereby ratified, approved, and confirmed.

Section 15. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 16. Repealer. All orders, resolutions, bylaws, ordinances or regulations of the City, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

Section 17. Ordinance Irrepealable. After the Bond is issued, this Ordinance shall constitute an irrevocable contract between the City and CWRPDA, and shall be and remain irrepealable until the Bond and the interest thereon, as applicable, shall have been fully paid, satisfied, and discharged. No provisions of any constitution, statute, charter, ordinance, resolution, or other measure enacted after the issuance of the Bond shall in any manner be construed as impairing the obligations of the City to keep and perform the covenants contained in this Ordinance.

Section 18. Recordation. A true copy of this Ordinance, as adopted by the City Council, shall be numbered and recorded on the official records of the City and its adoption and

publication shall be authenticated by the signatures of the Mayor and the City Clerk, and by a certification of publication.

Section 19. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after publication following final adoption.

[Remainder of page left blank intentionally]

INTRODUCED, READ BY TITLE, PASSED ON FIRST READING, AND APPROVED THIS 20TH DAY OF APRIL, 2021.

CITY OF SALIDA, COLORADO

Mayor

ATTEST:

City Clerk

FINALLY ADOPTED AND APPROVED AND ORDERED PUBLISHED ONCE AFTER SECOND AND FINAL READING THIS 4TH DAY OF MAY, 2021.

CITY OF SALIDA, COLORADO

Mayor

ATTEST:

City Clerk

STATE OF COLORADO)
)
COUNTY OF CHAFFEE) SS.
)
CITY OF SALIDA)

I, Erin Kelley, the duly appointed, qualified and acting City Clerk of the City of Salida, Colorado (the “City”) do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the City Council of the City constituting the governing body of the City (the “City Council”), by vote had and taken at open, regular meetings of the City Council held at the Council Chambers, in Salida, Colorado, on April 20, 2021 and May 4, 2021, each convening at the hour of 6:00 p.m., as recorded in the regular book of official records of the proceedings of said City kept in my office.

2. The adoption of the Ordinance on first reading was duly moved and seconded and the Ordinance was adopted by an affirmative vote of a majority of the members of the City Council at the regular meeting of the City Council on April 20, 2021, as follows:

Name	“Yes”	“No”	Absent	Abstain
P.T. Wood, Mayor				
Dan Shore, Mayor Pro-Tem				
Justin Critelli				
Harald Kasper				
Alisa Pappenfort				
Mike Pollock				
Jane Templeton				

3. The adoption of the Ordinance on second and final reading was duly moved and seconded and the Ordinance was adopted by an affirmative vote of a majority of the members of the City Council at the regular meeting of the City Council on May 4, 2021, as follows:

Name	“Yes”	“No”	Absent	Abstain
P.T. Wood, Mayor				
Dan Shore, Mare Pro-Tem				
Justin Critelli				

Harald Kasper				
Alisa Pappenfort				
Mike Pollock				
Jane Templeton				

4. The members of the City Council were present at the meeting and voted on the passage of such Ordinance as set forth above.

5. There are no bylaws, rules, or regulations of the City Council which might prohibit the adoption of said Ordinance

6. That notices of the regular meetings on April 20, 2021 and May 4, 2021, in the forms attached hereto as **Exhibit A**, were posted in a designated public place within the boundaries of the City no less than twenty-four hours prior to the meeting as required by law.

7. The Ordinance was published in the _____, a newspaper of general circulation in the City, after its first and second readings, in accordance with the laws of the State. The affidavits of publication are attached hereto as **Exhibit B**.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said
City this _____ day of May, 2021.

(SEAL)

City Clerk

EXHIBIT A
(Attach Meeting Notices)

EXHIBIT B

(Attach Affidavits of Publication)



CITY COUNCIL ACTION FORM

Department Public Works	Presented by David Lady - Public Works Director	Date May 4, 2021
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ITEM

Council Action – Authorize Grant Application and Fiscal Match for CDOT Mainstreet Grant for SH-291.

BACKGROUND

The City of Salida adopted the US-50 and CO 291 Intersection Control Evaluation on March 16, 2021. This study included streetscape planning for Oak Street from B Street to US-50. The proposed alternative street section for these improvements included bike lanes, curb & gutter on one side, sidewalk, parkway improvements such as landscaping, stormwater improvements, and lighting upgrades.

CDOT has recently announced State Bill 110 which has funding available for Mainstreet improvement projects. Opportunity 1 has funding up to \$150k for smaller projects whereas Opportunity 2 has funding for larger Mainstreet Improvements up to \$2 million. The Oak Street improvements would fall under Opportunity 2. The grant identifies a preferred match of 20%.

Additional site plan engineering and preliminary cost estimating are underway. Stormwater and other improvements necessary for street reconstruction will need to be identified with cost estimating later in the design process.

FISCAL NOTE

Fiscal Impact to the City would occur in 2022 or later. A 20% match of a \$2,000,000 grant (max amount for the funding being considered) would be \$400,000. The City of Salida street fund is anticipated to have revenues in excess of this amount in 2022 (2021 Sales Tax Revenues dedicated to the Street Fund are ~ \$2.2 Mil).

STAFF RECOMMENDATION

Staff is recommending approval of Resolution 2021-13 committing to the fiscal match up to \$400,000 for SH-291 (Oak Street) improvements and authorizing staff to pursue the CDOT Mainstreet Grant on behalf of the City.

SUGGESTED MOTION

A Council member should "move to approve Resolution 2021-13". Followed by a second and then a roll call vote.

**CITY OF SALIDA, COLORADO
RESOLUTION NO. 13
(Series 2021)**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO
AUTHORIZING A GRANT APPLICATION AND COMMITTING FUNDING FOR
STREETSCAPE IMPROVEMENTS TO OAK STREET (SH-291).**

WHEREAS, CO-291 and US-50 are state highways under the jurisdiction of the Colorado Department of Transportation (CDOT) with segments located within the municipal boundary of Salida; and

WHEREAS, the City of Salida desires to collaboratively work with CDOT to provide for future planning along these corridors which may include access, intersection, multi-modal streetscape, and gateway improvements; and

WHEREAS, the City of Salida approved Resolution 2018-14 which authorized the IGA between the City of Salida and the State of Colorado for completion of the Study; and

WHEREAS, the City of Salida approved Resolution 2021-07 which adopted the US-50 and CO-291 Intersection Control Evaluation Study between the City of Salida and the State of Colorado; and

WHEREAS, the CDOT Mainstreet Grant Opportunity 2 has a maximum award amount of \$2,000,000 and a 20 % match requirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Salida that:

Section 1. The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.

Section 2. The Salida City Council hereby authorizes staff to pursue grant funding opportunities for Oak St. streetscape improvements and will commit up to \$400,000 in the 2022 Street budget as a portion of City match funds to complete the work.

RESOLVED, APPROVED AND ADOPTED on this 4th day of May, 2021.

CITY OF SALIDA, COLORADO

Mayor P.T. Wood

(SEAL)

ATTEST:

City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
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ITEM:

Resolution 2021-14 – A Resolution of the Salida City Council Amending the Declaration of Local State of Emergency to Provide for the Administrative Facilitation of Outdoor Dining and Retail Spaces Within the City’s Rights-of-Way and Public Places, and to Authorize Other Certain Actions as Needed

BACKGROUND:

As the State of Colorado continues to evolve in its response to the COVID-19 pandemic, the City of Salida continues to respond in kind. The state’s liquor laws were relaxed in May 2020 to allow for the expansion of its Modification of Premises (MOP) guidelines. The expansion of MOP guidelines remains in effect and continues to allow for temporary expansion of where restaurants and bars can serve alcohol. The Governor has encouraged restaurants and bars to work with local municipalities to allow for their businesses to occupy outdoor seating areas in parking lots, sidewalks, and in some cases the public right-of-way.

In order to facilitate this process, staff has worked to develop Resolution 2021-14 (attached) which would expedite processes to allow for the MOP process to occur. This would allow for any business – not just restaurants and bars – to occupy certain public spaces where appropriate. This Resolution takes into account feedback and experiences from the Summer 2020 temporary shutdown of F Street between Sackett and 2nd Street. Those two blocks of F Street remain the most logical to shut down to traffic (keeping 1st Street open for traffic, as it is a state highway). Based on feedback the following modifications will be implemented in 2021:

- A clear travel path of six-feet (6’) down the center of the street will be preserved. Where necessary barrier fencing is available to delineate this pathway from adjacent uses.
- Portable ADA ramps will be provided at various points along the pedestrian area of F Street to provide additional accessibility from the sidewalk curb to the pedestrian area of the street.
- Public amenities such as pergolas with seating will be set up at four (4) points within the public right-of-way along the pedestrian area.
- Ten (10) new trash cans and four (4) new recycling cans will be provided along F Street to provide additional bear-safe and ADA compliant trash and recycling collection points.
- Businesses will be allowed to host activities and entertainment in their expansion space while still ensuring compliance with Chaffee County Public Health guidance for outdoor gatherings.
- Any food truck or cart operation within an outdoor expansion space will need to be owned and operated by the business whose space is being utilized.

Resolution 2021-14 would also assist with businesses not located on F Street. This would allow any restaurant or bar with a parking lot to expand into that lot for table service. Non-food service



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

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businesses with parking lots would also be allowed to expand into that lot. In the event that a portion of a public right-of-way is logical and safe to expand into, such as an existing parking space (except along State Highway right-of-way) or sidewalk, this Resolution would allow staff members to review and approve an MOP for an establishment with a liquor license and a Temporary Outdoor Expansion (TOE) for this purpose. Businesses without a liquor license that wish to expand would apply for a TOE only. It is important to cultivate common rules that each MOP and TOE will be evaluated by:

- **Private Parking Lots:** A maximum of fifty percent (50%) or half of existing private parking lots may be utilized for a restaurant patio extension for a currently-permitted restaurant, subject to the written approval of the owner of the parking lot.
- **Public Sidewalks:** A clear travel path of five feet (5') in width and meeting Americans with Disabilities Act (ADA) accessible path requirements must be maintained and is subject to a revocable license agreement approved by the City. The business owner must provide the City an ADA plan if they wish to close or alter a sidewalk space.
- **Public Streets:** Expansion into public streets and rights-of-way shall be at the sole discretion of the City, subject to any additional terms deemed necessary. Use of public streets shall only occur where streets are restricted to pedestrian traffic only for an entire block. The City will pre-determine four (4) areas, two (2) on each block, as sites for a City-installed pergola with seating. The City will work with adjacent business owners to minimize encroachment into outdoor space being utilized by that business.

A clear travel path of six feet (6') in width must be maintained along the center of the street, three feet (3') on each side of the street centerline. In addition, immovable objects such as patios, planter boxes, boulders, and similar shall be at least five feet (5') from the centerline. The City will use metal fencing or other temporary means to delineate between the business expansion space and the six-foot clear travel path. Bicycles, skateboards, scooters and similar devices must be walked or carried in any area where vehicle traffic is not allowed. In addition to no physical objects, no activity or performance will be allowed to encroach into this travel path.

The remaining area, extending from the curb to within three feet (3') from the centerline of the public street, at a width equal to the street frontage of the individual physical business, shall be available for expansion by that individual business. A business must have a plan for security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur.

- **Public Parking Spaces:** For businesses in the Downtown C-2 district on streets that are not closed to vehicle traffic, the use of the existing public parking spaces adjacent to and in front of the business may be used with the exception of State Highway right-of-way (similar to City's existing program for patio spaces). In order to use public parking spaces, the business



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must complete the TOE application with required attachments. In addition, the business must provide a safety plan for patrons utilizing this space, including barriers and fencing, protection from vehicles by physical means, security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur due to business activity. The City may have barriers and fencing available for the business if needed.

• **Temporary Structures and Fences:**

- **Small Tents (<400 s.f.):** Small tents of 400 square feet or less are permitted on a temporary basis. Where tents are proposed, the City encourages the use of tents having a total area of 400 square feet or less to streamline review and approval.
- **Large Tents (>400 s.f.):** Tents that are larger than 400 square feet are subject to additional building and fire code requirements, greater submittal requirements, and a review process that is more extensive than that used for small tents less than 400 square feet in area.
- **Temporary Fences:** Fences of a temporary nature with a maximum height of six feet (6') may be installed in connection with a patio extension, subject to the written approval of the property owner. All fencing, if installed, shall meet building and fire code access requirements, including for egress.

- **Temporary Lighting:** Lighting of a temporary nature may be permitted in connection with a patio extension, subject to City approval and in compliance with the Salida Municipal Code's dark sky provisions.

- **Hours of Operation:** Temporary patio extensions and all activities authorized under this Resolution are required to close by 10:00 p.m.

- **Music, Performance Art, and Outdoor Entertainment:** Businesses may host live performances including but not limited to: musicians, artists, buskers, and speakers as well as outdoor games and entertainment outside of their business. A business must obtain an amplified sound permit from the City for any amplified sound over 65 dB. In no case can the activity or performance area, or audience, encroach upon the six-foot (6') clear travel path down the center of the street, the five-foot (5') clear travel path required on the sidewalks, or any ADA designated paths or appurtenances. Compliance with Chaffee County Public Health guidance for outdoor gatherings will be required.

- **Required Approvals and Permits:** In order to take advantage of this program, the business owner will have to use the Administrative Review of Temporary Outdoor Expansion application form (attached) and provide the City with the following:



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Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
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- Applicants must file a signed Revocable License for Use of Public Right Of Way or Public Place.
- A conceptual site plan of the proposed expansion area showing existing and proposed features, such as buildings, fences, roads, alleys, sidewalks and parking lots which are relevant to the application. The business must provide the City an ADA accessibility plan for their space.
- For Businesses with an Approved Liquor License: In addition to the conceptual site plan, the plan must include information related to access to and egress from the patio by both patrons and staff; a layout of tables, chairs, and serving stations; spacing required for social distancing; and sanitation plans and programs.
- **For Food Trucks and Mobile Food Vendors:** Businesses along the F Street closure may have a food truck or mobile food vending operation in their allocated outdoor area. However the business owner or property owner must own and operate the food truck or mobile food vending operation. The business must provide a plan for their food truck, cart, etc. which would include hook-ups for power and water as well as whether the food truck, cart, etc. would be able to remain in place for the duration of the F Street closure. Only smaller equipment that can be moved by hand will be allowed to be removed on a regular basis. Generators will not be allowed. Power must be sourced from the adjacent business, and power cords must have appropriate ADA compliant coverings. All food vendors must have required Health Department permits.
- **Prior Approval Required:** Any business seeking to utilize this program for a Modification of Premise must receive prior approval by both the City and State of Colorado Liquor Enforcement Division (LED) prior to operation. The MOP licenses are currently being reviewed concurrently by both the City and LED. There is a \$150 application fee payable to the LED. There is no fee for the City of Salida. Businesses with an approved liquor license may sell to-go beverages that are not to be consumed in public areas.

In addition, the City Attorney has developed the attached Revocable License for Use of Public Right Of Way or Public Place. This standard agreement will be put in place for every business that wishes to use streets, sidewalks, or other places (specifically excluding public parks) to provide for liability protection, damage protection, and revocability of the license once need/demand for the space abates. Staff anticipates that in most cases, the demand for outdoor spaces will last through the summer.

FISCAL NOTE:

The City is currently assessing costs for this program. Staff anticipates that with a closure of a public street there will be a need for signage, monitoring, and aesthetic improvements. A CD Revitalizing Main Streets grant has been obtained that will provide trash and recycling cans,



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pedestrian amenities and barrier fencing. Currently, we anticipate costs between \$5,000 and \$10,000 in hard infrastructure, with personnel costs unknown.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2021-14.

SUGGESTED MOTIONS:

A City Councilperson should make a motion to approve Resolution 2021-14, followed by a second and a roll call vote.

RESOLUTION NO. 2021 – 14

A RESOLUTION OF THE SALIDA CITY COUNCIL EXTENDING THE AMENDMENT TO THE DECLARATION OF LOCAL STATE OF EMERGENCY TO PROVIDE FOR THE ADMINISTRATIVE FACILITATION OF OUTDOOR DINING AND RETAIL SPACES WITHIN THE CITY’S RIGHTS-OF-WAY AND PUBLIC PLACES, AND TO AUTHORIZE OTHER CERTAIN ACTIONS AS NEEDED

WHEREAS, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City by and through its City Council (“Council”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, on March 13, 2020, pursuant to Salida Municipal Code section 2-17-10, the City of Salida declared a State of Emergency via proclamation, and many times since, up to and including April 6, 2021, the City of Salida extended that local state of emergency; and

WHEREAS, section 2-17-20 of the Salida Municipal Code states that proclamation of local state of emergency “may contain such other regulations as the Mayor deems necessary and proper to the maintenance of public peace, order and safety;” 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 (“LED”) issued Emergency Regulation 47-302 in Bulletin 20.07 (“Emergency Regulation 47-302”) establishing procedures for a licensee seeking to temporarily modify the licensed premises, including into outdoor areas and the LED has extended and expanded such procedures to continue to assist local businesses throughout the State; and

WHEREAS, on June 2, 2020, in order to facilitate the business of licensees and the business needs of all retailers during periods of mandated social distancing, the Salida City Council authorized administrative review and approval of temporary outdoor expansion applications and revocable licenses to encroach in the City’s rights-of-way and public places via Resolution 2020-20; and

WHEREAS, the Salida City Council finds and declares that, given the current circumstances, and the ongoing effects of the global pandemic, it is still in the best interests of the health, welfare, and safety of Salida residents, businesses and customers to continue to permit administrative review and approval of temporary outdoor expansion applications and revocable licenses to encroach in the City’s rights-of-way to continue to accommodate business during the local disaster emergency and mandatory social distancing, and continue authorizing other certain actions, as needed, during the local state of emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA THAT:

Section 1. The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.

Section 2. In association with the City’s Declaration of Emergency, the Mayor and City Administrator are hereby further directed and each individually authorized to take each of the following actions upon a finding that such action is necessary to protect the public health, safety and welfare:

- a. To administratively review and approve temporary outdoor expansion applications and revocable licenses to encroach upon the City’s rights-of-way and public places in order to facilitate expansion of retailers and of outdoor seating areas for dining, in accordance with Colorado Department of Public Health and Environment social distancing requirements.
- b. To expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with City purchasing procedures on the condition that every such action shall be presented to the City Council for ratification as soon as practical thereafter.
- c. To direct the transfer or temporary reassignment of City personnel and resources for the purposes of performing or facilitating public health emergency services.
- d. To utilize all available resources of the City as may be reasonably necessary to cope with this public health emergency whether in preparation for, response to, or recovery from this public health emergency.
- e. To temporarily suspend parking requirements, zoning restrictions or other applicable regulations, in order to facilitate the temporary expansion of retailers, liquor licensees and dining establishments.

Section 3. This Resolution shall stay in effect until termination of the City’s emergency declaration.

RESOLVED, APPROVED, AND ADOPTED this 4th day of May, 2021.

CITY OF SALIDA

By: _____
P.T. Wood, Mayor

[SEAL]

ATTEST: _____

City Clerk/Deputy City Clerk



REQUIREMENTS AND POLICIES FOR EXPANDING BUSINESS ACTIVITY INTO PARKING LOTS, PARKING SPACES AND STREETS

The City of Salida desires to work with businesses throughout our community to pivot towards operating with safe and healthy best practices during our fight with Covid-19. On Tuesday, May 4th, the Salida City Council approved Resolution 2021-14, which directed City staff to facilitate the expansion of outdoor dining and retail spaces into parking lots, parking spaces, and even public streets.

In order to proceed with expansion, there are a few rules that businesses must apply as part of an application process:

For Restaurants and Bars with a Liquor License

LED Temporary Modification of Premises (MOP) obtained last year are still valid. Any bar or restaurant without an MOP from last year wanting to expand their existing licensed premise into parking lots or streets must apply for a Modification of Premise (MOP) with both the City of Salida as well as the Colorado Liquor Enforcement Division (LED). These MOP applications are being reviewed concurrently by both the City and the LED. Application forms can be found at:

https://www.colorado.gov/pacific/sites/default/files/DR%208442_e_wo_2.pdf

There is a \$150 processing fee payable to the State of Colorado. There is no fee for the City of Salida. Businesses with an approved liquor license may sell to-go beverages that are not to be consumed in public areas.

Private Parking Lots

A maximum of fifty percent (50%) or half of existing private parking lots may be utilized for a restaurant patio extension for a currently-permitted restaurant, subject to the written approval of the owner of the parking lot.

Public Sidewalks

A clear travel path of five feet (5') in width and meeting Americans with Disabilities Act (ADA) accessible path requirements must be maintained and is subject to a revocable license agreement approved by the City. The business owner must provide the City an ADA plan if they wish to close or alter a sidewalk space.

Public Streets

Expansion into public streets and rights-of-way shall be at the sole discretion of the City, subject to any additional terms deemed necessary. Use of public streets shall only occur where streets are restricted to pedestrian traffic only for an entire block. The City will pre-determine four (4) areas, two (2) on each block, as sites for a City-installed pergola with seating. The City will work with adjacent business owners to minimize encroachment into outdoor space being utilized by that business.

A clear travel path of six feet (6') in width must be maintained along the center of the street, three feet (3') on each side of the street centerline. The City will put up metal fencing or other temporary means to delineate between the business expansion space and the six-foot clear travel path. Bicycles, skateboards, scooters and similar devices must be walked or carried in any area where vehicle traffic is not allowed. In addition to no physical objects, no performance will be allowed to encroach into this travel path.

The remaining area, extending from the curb to within three feet (3') from the centerline of the public street, at a width equal to the street frontage of the individual physical business, shall be available for expansion by that individual business. A business must have a plan for security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur.

Public Parking Spaces

For businesses in the Downtown C-2 district on streets that are not closed to vehicle traffic, the use of the existing public parking spaces adjacent to and in front of the business may be used with the exception of State Highway right-of-way (similar to the City's existing program for patio spaces). In order to use public parking spaces, the business must complete the TOE application with required attachments. In addition, the business must provide a safety plan for patrons utilizing this space, including barriers and fencing, protection from vehicles by physical means, security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur due to business activity. The City may have barriers and fencing available for the business if needed.

Temporary Structures and Fences

Any proposed structure or fence shall be secured utilizing weights. Anchors involving drilling or fastening to the roadway infrastructure shall be reviewed on a case-by-case basis.

- **Small Tents (<400 s.f.):** Small tents of 400 square feet or less are permitted on a temporary basis. Where tents are proposed, the City encourages the use of tents having a total area of 400 square feet or less to streamline review and approval.
- **Large Tents (>400 s.f.):** Tents that are larger than 400 square feet are subject to additional building and fire code requirements, greater submittal requirements, and a review process that is more extensive than that used for small tents less than 400 square feet in area.
- **Temporary Fences:** Fences of a temporary nature with a maximum height of six feet (6') may be installed in connection with a patio extension, subject to the written approval of the property owner. All fencing, if installed, shall meet building and fire code access requirements, including for egress.

Temporary Lighting

Lighting of a temporary nature may be permitted in connection with a patio extension, subject to City approval and in compliance with the Salida Municipal Code's dark sky provisions.

Hours of Operation

Temporary patio extensions and all activities authorized under this Resolution are required to close or cease by 10:00 p.m.

Music, Performance Art, and Outdoor Entertainment

Businesses may host live performances including but not limited to musicians, artists, buskers, and speakers as well as outdoor games and entertainment outside of their business. A business must obtain an amplified sound permit from the City for any amplified sound over 65 dB. In no case can the activity or performance area, or audience, encroach upon the six-foot (6') clear travel path down the center of the street, the five-foot (5') clear travel path required on the sidewalks, or any ADA designated paths or appurtenances.

Required Approval and Permits:

In order to take advantage of this program, the business owner will have to use the Administrative Review of Temporary Outdoor Expansion application form and provide the City with the following:

- Applicants must file a signed Revocable License for Use of Public Right Of Way or Public Place.
- A conceptual site plan of the proposed expansion area showing existing and proposed features, such as buildings, fences, roads, alleys, sidewalks and parking lots which are relevant to the application. The business must provide the City an ADA accessibility plan for their space.
- For Businesses with an Approved Liquor License: In addition to the conceptual site plan, the plan must include information related to access to and egress from the patio by both patrons and staff; a layout of tables, chairs, and serving stations; spacing required for social distancing; and sanitation plans and programs.

For Food Trucks and Mobile Vendors

Businesses along the F Street closure may have a food truck or mobile food vending operation in their allocated outdoor area. However the business owner or property owner must own and operate the food truck or mobile food vending operation. The business must provide a plan for their food truck, cart, etc. which would include hook-ups for power and water as well as whether the food truck, cart, etc. would be able to remain in place for the duration of the F Street closure. Only smaller equipment that can be moved by hand will be allowed to be removed on a regular basis. Generators will not be allowed. Power must be sourced from the adjacent business, and power cords must have appropriate ADA compliant coverings. All food vendors must have required Health Department permits.

These measures are subject to change at the sole discretion of the City of Salida and may be terminated at any time.



CITY COUNCIL ACTION FORM

Department Administration	Presented by Drew Nelson - City Administrator	Date May 4, 2021
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ITEM

Declaration of Extension of State of Emergency – Covid-19 Action Plan Implementation

BACKGROUND

As we are all quite aware, the worldwide COVID-19 pandemic has created an environment where federal, state and local governments Article XVII, Section 2-17-10 of the Salida Municipal Code states that when it appears to the Mayor that the general health, safety and welfare of the inhabitants of the City are threatened, he or she may declare a state of emergency by proclamation. After conferring with the Chaffee County Public Health, on Friday, March 13th, 2020, such an emergency declaration was approved by Mayor Wood to approve the City of Salida COVID-19 Action Plan. The City Council ratified the emergency declaration on March 17th, 2020, extending until April 25th, 2020. Thirteen extensions have been granted for the Declaration, with the most recent one ending on May 5th, 2021. Staff continues to work with Chaffee County Public Health to revise the City of Salida COVID-19 Action Plan to reflect changes to the State of Colorado’s COVID-19 Dial, identifying rates of infection, positivity rate, and hospitalizations as data points for moving up or down on the City’s Tiered response (a copy of the Action Plan is attached hereto for your review). Currently, the City is at Tier II in the Action Plan, with Chaffee County identified in the Blue Level of the State’s COVID-19 Dial.

Section 2-17-30 establishes a term of no more than ten (10) days of for any emergency declaration. It also provides that the City Council may extend any proclamation issued by the Mayor for a period not to exceed forty (40) days by a two-thirds (2/3) vote. As issues related to COVID-19 continue, it is imperative that the City continues to follow the protocols established in the Action Plan.

FISCAL NOTE

No direct costs immediately; however, costs may be incurred as this ever-evolving situation goes forward.



CITY COUNCIL ACTION FORM

Department Administration	Presented by Drew Nelson - City Administrator	Date May 4, 2021
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STAFF RECOMMENDATION

Staff recommends approval by the City Council of a Declaration of Extension of Local State of Emergency to implement the City of Salida’s COVID-19 Action Plan, as currently established, until June 2nd, 2021, which is one day after the first regular City Council meeting in June.

SUGGESTED MOTION

A City Councilmember should make a motion to approve a Declaration of extension of Local State of Emergency to implement the City of Salida’s COVID-19 Action Plan, extending until June 2nd, 2021, followed by a second and a roll call vote.

**CITY OF SALIDA, COLORADO
EXTENDING A LOCAL STATE OF EMERGENCY
REGARDING COVID-19 (CORONAVIRUS DISEASE 2019)**

FINDINGS AND CONCLUSIONS:

WHEREAS, COVID-19 is a highly contagious virus that has spread to numerous countries throughout the world, including the United States; and

WHEREAS, the virus may cause serious illness or death in certain cases, particularly for elderly and persons with underlying health conditions; and

WHEREAS, on March 11, 2020, the World Health Organization (“WHO”) declared the worldwide outbreak of COVID-19 a “global pandemic”, pushing the threat beyond the “global health emergency” it had announced in January; and

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

WHEREAS, on March 13, 2020, the Board of County Commissioners of Chaffee County declared a Local Disaster Emergency as authorized under C.R.S. § 24-33.5-703(3) to assist local governments in responding to and recovering from emergency events, including emergency epidemics and pandemics; and

WHEREAS, on March 17, 2020, the Salida City Council unanimously approved an initial Local State of Emergency regarding COVID-19, extending until April 25, 2020; and

WHEREAS, on April 21, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until May 6, 2020; and

WHEREAS, on May 5, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until June 3, 2020; and

WHEREAS, on June 2, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until July 8, 2020; and

WHEREAS, on July 7, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until August 4, 2020; and

WHEREAS, on August 4, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until September 2, 2020; and

WHEREAS, on September 1, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until October 7, 2020; and

WHEREAS, on October 6, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until November 4, 2020; and

WHEREAS, on November 2, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until December 2, 2020; and

WHEREAS, on December 1, 2020, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until January 6, 2021; and

WHEREAS, on January 5, 2021, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until February 3, 2021; and

WHEREAS, on February 2, 2021, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until March 3, 2021; and

WHEREAS, on March 2, 2021, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until April 7, 2021; and

WHEREAS, on April 6, 2021, the Salida City Council unanimously approved an extension of the Local State of Emergency regarding COVID-19 until May 5, 2021; and

WHEREAS, the Chaffee County Public Health Department anticipates that, due to the contagiousness of the illness and the fact that numerous travelers from around the world visit the County, Chaffee County will see cases of the virus and its transmission within the community; and

WHEREAS, Article XVII, Section 2-17-10 of the Salida Municipal Code authorizes the Mayor to declare a State of Emergency via proclamation when it appears that the general health, safety and welfare of the inhabitants of the City are threatened by general public unrest or riot, or by attack upon the State; and

WHEREAS, Article XVII, Section 2-17-30 allows for the City Council to extend any proclamation issued by the Mayor under Section 2-17-10 to be extended for a period not to exceed forty (40) days by a two-thirds (2/3) vote; and

WHEREAS, the City's current State of Local Emergency proclamation will expire on May 5, 2021, which does not coincide with the Governor of the State of Colorado's Dial 3.0 order, which is anticipated to be extended; and

WHEREAS, the cost and magnitude of responding to and recovering from the impact of the COVID-19 virus on local emergency services providers and medical services is anticipated to be far in excess of the community's available resources; and

WHEREAS, in response to the outbreak of COVID-19 in Chaffee County and the Salida community, and in light of the ongoing risk to public health and safety, at this time it is necessary to extend the existing Local State of Emergency.

NOW THEREFORE, IT IS HEREBY DECLARED BY THE SALIDA CITY COUNCIL:

Section 1. The confirmed presence of COVID-19 in Chaffee County constitutes a Local State of Emergency, as defined in Article XVII, Section 2-17-10 of the Salida Municipal Code, not to exceed a term of forty (40) days.

Section 2. The effect of this declaration of Local State of Emergency shall continue the City's COVID-19 Action Plan, revised and effective as of December 1, 2020, attached hereto as Exhibit A, authorizing a tiered approach to proactively respond to changes in the COVID-19 situation as well as reflect the recommendations of our Federal, State, and Local Health Departments.

Section 3. This declaration shall be made effective immediately on May 4, 2021, and shall be in effect until June 2, 2021.

APPROVED, DECLARED AND ADOPTED on this 4th day of May, 2021.

CITY OF SALIDA, COLORADO

[SEAL]

ATTEST:

P.T. Wood, Mayor
City of Salida, Colorado

City Clerk



CITY OF SALIDA – COVID-19 ACTION PLAN

Purpose: To provide a comprehensive and tiered Action Plan to City of Salida officials in response to the ongoing COVID-19 pandemic. This Action Plan is intended to slowly escalate to proactively respond to changes in the situation as well as reflect the recommendations of our State and local Public Health Departments. This Action Plan is effective December 1, 2020, until further notice.

Authority: Per Sections 2-17-10 and 2-17-20 of the Salida Municipal Code, when it appears to the Mayor that the general health, safety and welfare of the inhabitants of the City are threatened, he or she may declare a state of emergency proclamation. The proclamation may impose a curfew within the City, may prohibit public or private assemblies, may impose restrictions on movement within the City and may contain other regulations necessary and proper to the maintenance of public peace, order and safety.

Tier I – Level Green/Blue

Heightened Awareness. The Colorado Department of Public Health and Environment (CDPHE) or Chaffee County Public Health Department (CCPH) have indicated that COVID-19 is in the state and are encouraging citizens to be aware and to focus on sanitization and hygiene. CDPHE and/or CCPH has placed Chaffee County in either Level Green or Level Blue on the State’s COVID-19 Dial, with Incidence Rates of up to 75 cases per 100,000 residents (or more than 15 cases in Chaffee County per two-week period), or when the percentage of positive tests is below 1.5%.

- Encourage employees to stay home if sick or to go home if exhibiting symptoms while at work. Employees will continue to use sick leave.
- Identify work spaces where employees can temporarily isolate if they are awaiting transportation to their home or medical care.
- Wash hands often, also use hand sanitizer often.
- Face coverings are required in indoor public settings.
- Heightened amount of environmental sanitation – Lysol, wipes, environmental germicide sprays, etc.
- Employees should refrain from traveling to conferences and/or meetings in other parts of the Country where cases of COVID-19 are expanding.
- Acquire/Inspect/Issue Personal Protective Equipment (PPE) to selected City Staff (gloves, masks, etc.).

- Meetings of the City Council, and of official City Boards and Commissions, will offer the option for remote attendance and participation.

Tier II – Level Yellow

Statewide Concern. CDPHE and/or CCPH have indicated multiple cases of COVID-19 within the Chaffee County. CDPHE and/or CCPH has placed Chaffee County in Level Yellow on the State’s COVID-19 Dial. Incidence Rates are between 75 and 175 cases per 100,000 residents (or between 15 and 35 cases in Chaffee County per two-week period), or when the percentage of positive tests is between 1.5% and 3%. When directed by the Mayor, City Administrator, or their delegate, the City will move its response to Tier II which, in addition to Phase I steps, include:

- Teleworking and staggered shifts authorized. Departments should utilize telework options for a limited number of employees to lessen the impact on Tech Services.
- Meetings of the City Council, and of official City Boards and Commissions, will offer the option to attend and participate remotely, and may take place in person following all physical separation requirements. Attendance by members of the public may occur based on room size/capacity and maintaining 6’ of distance between attendees.
- Employees should refrain of physical contact with each other and with members of the public. CDPHE and CCPH recommends a 6’ distance of separation.
- Employees should limit or eliminate any outside agency meeting attendance, unless able to be done remotely.
- City Departments should begin to limit internal meetings. Face coverings are required when meeting in person with other employees or while away from one’s office or desk.
- Employees who self-identify as high risk (having compromised immune systems, for example) should work from home.
- The City will take direction from CDPHE and CCPH.

Tier III – Level Orange/Red

Chaffee County Concern. Chaffee County Health has indicated multiple rising cases of COVID-19 within Chaffee County, with an Incidence Rate between 175 and 350 per 100,000 residents (or between 35 and 70 cases in Chaffee County per two-week period), or when the percentage of positive tests is between 3% and 5%. CDPHE and/or CCPH has placed Chaffee County in either Level Orange or Level Red of the State’s COVID-19 Dial. When directed by the Mayor, City Administrator, or their delegate, the City will move its response to Tier III which, in addition to Phase II steps, include:

- Employees will be directed to stay home (or go home) if they or any family member they live with is exhibiting any symptoms, or if they are high risk.
- Meetings of the City Council, and of official City Boards and Commissions, may take place in person following all physical separation requirements, and with the following limited

restrictions: in-person attendance of the public is limited to only applicants or appellants for quasi-judicial hearings. Remote attendance and participation by all parties, including City Councilmembers and staff, is strongly encouraged.

- Recreation programs shut down, including very limited access to, or closure of, the Salida Hot Springs Aquatic Center, the SteamPlant Event Center, and the Rotary Scout Hut. Specific closure dates shall be established by Department Heads and announced via press release.
- Teleworking and staggered shifts authorized. Departments will continue to roll out additional measures or plans to allow employees to work remotely, when feasible.
- Departments must take additional steps they have identified to limit exposure between employees and between employees and members of the public.
- Reduced staffing in City buildings authorized. Departments will take steps to ensure City buildings are minimally staffed, and public access is very limited. Employees are encouraged to perform all tasks remotely, if possible. Face coverings must be worn at all times, including while in one's office or at one's desk.
- Heightened level of sanitization of spaces including additional germicide spraying.
- Selected City Staff have PPE on hand and begin utilization, as appropriate.
- Public events (other than official meetings of the City Council, or of official City Boards or Commissions) scheduled to take place in City-owned facilities are suspended until further notice. The Salida community is strongly encouraged to engage in social distancing and to postpone or cancel any gatherings where people will congregate in large numbers and/or in close contact with one another.
- Other steps as directed by CDPHE and CCPH.

Tier IV – Level Red/Purple

Full implementation of Response Plan. Tier IV may occur at such time as CDPHE and/or CCPH places Chaffee County in either Level Red or Level Purple on the State's COVID-19 Dial, with Incidence Rates in excess of 350 cases per 100,000 residents in Chaffee County (or more than 70 cases in Chaffee County per two-week period), or when the percentage of positive tests exceeds 5%, or schools are shut down, or hospitalizations exceed bed capacity at health facilities in Chaffee County, or at such other time as Salida deems it to be in the best interest of the organization and/or community. When directed by the Mayor, City Administrator, or their delegate, the City will move its response to Tier IV which, in addition to Phase III steps, include:

- City Buildings minimally staffed, no public access. Public will be directed to conduct business online, if feasible, or by phone. Non-essential services (City Hall Administration, City Hall Finance, Fire Station Administration, Police Station Administration, and Public Works Administration) are closed to the public. Public is encouraged to use digital and telephone communication, website access, online payments, and other ways of communication to conduct business with the City. Masks required at all times.

- In-Person attendance of meetings of the City Council, and of official City Boards and Commissions, shall be heavily restricted to only staff and select Elected or Appointed Officials who are necessary to be present to effectively run meetings. Any attendance and participation by the public, including applicants and appellants for quasi-judicial hearings, shall be conducted remotely only.
- Departments will fully enact Departmental plans. Teleworking options and staggered shift work maximized. Only essential services ongoing, unless able to be provided through employees working remotely.
- Incident Command may be set up locally or in coordination with County Authorities.
- Selected City Staff mandatory use of PPE.
- Other steps as directed by State and Local Health authorities, including support of their efforts.

Mayor P.T. Wood asks that the community remain vigilant during these challenging times. “Chaffee County Public Health has worked very hard to get our community through a tumultuous period while keeping our business community intact. It is critically important that we increase our efforts to limit the spread of the disease to the greatest extent possible as we head into the upcoming winter months. Remember that Chaffee’s Got Heart:

- **Hang at Home if Sick**
- **Excel at Handwashing**
- **Always Wear a Mask in Public**
- **Respect Social Distancing**
- **Test if You Have Symptoms**

