

ORDER NO. 2020- 02

AN ORDER OF THE INTERIM MANAGER OF THE CITY OF DURANGO PURSUANT TO THE EMERGENCY DECLARATION RELATED TO THE COVID-19 HEALTH CRISIS ADOPTING PROVISIONS TO DEFER THE PAYMENT OF SALES TAXES DUE TO THE CITY BY CERTAIN BUSINESSES LOCATED WITHIN THE CITY DURING THE PERIOD WHEN THE EMERGENCY DECLARATION IS IN EFFECT

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

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

WHEREAS, San Juan Basin Public Health Department adopted a Public Health Advisory on March 24, 2020 strongly recommending that all persons within its jurisdiction stay at home (the SJBH Stay at Home Advisory), which has created significant impacts to the operation of businesses within the City; and.

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

WHEREAS, the health crisis has and will continue to have a severe economic impact on local business that may threaten the continued existence of many those businesses with locations within the City. It is the intent of this Order to provide for a deferral of the payment of sales and use taxes by certain businesses in order to assist them in staying in business, which will support and hasten the local and state economic recovery following the termination of the Emergency Declaration.

ORDER:


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

1. The provisions of this Order for temporary deferral of the payment of City sales and use taxes shall apply to those businesses that meet all of the following criteria (the Qualifying Business):
 - a. Has a current business license issued by the City.
 - b. Is required to collect and remit sales and/or use taxes to the City under the provisions of the City Code.
 - c. Is not otherwise delinquent as of the date of this Order in any payment of sales or use taxes to the City and is not delinquent in filing any sales or use tax return due to the City.
 - d. Has a physical location or a substantial bona fide physical presence within the City during the entire period described for the deferral of sales and use taxes.
 - e. Had total gross sales subject to tax within the City of less than two million dollars (\$2,000,000) during the twelve (12) month period ending on February 29, 2020.
2. A Qualifying Business may make an application with the City Finance Department on forms approved by the City for approval to defer payment of sales and use taxes under the provisions of this Order. The business shall submit sufficient information to allow a determination as to whether the business meets the above referenced criteria for a Qualified Business. Notice of approval or non-approval of the requested deferral shall be provided to the applicant by the City Finance Department.
3. The payment of sales or use taxes that become due to the City for sales made by a Qualifying Business after March 1, 2020 and during the period in which the Emergency Declaration is in effect may be deferred until ninety days after the termination of the Emergency Declaration, at which time all such taxes shall be due and payable in full unless otherwise agreed in writing by the City. The deferral shall be in effect until the end of the month in which the Emergency Declaration is terminated. There shall be no interest or penalties imposed on the deferred amounts provided they are paid when due as required herein. If such amounts are not paid when due, then the interest and penalties provided for the City Code for tax payments shall apply.
4. In no case shall any Qualifying Business defer more than a total of ten thousand dollars (\$10,000) in sales or use taxes under the provisions of this Order.
5. Nothing contained herein shall defer the requirement to file sales and use tax returns as otherwise required by the City Code. This Order provides for a temporary deferral of payment of taxes and shall not be interpreted to provide for a refund or other waiver of taxes otherwise due to the City.

6. Except as specifically amended herein, all other provisions of the City Code related to the imposition or collection of sales and use taxes shall remain in full force and effect.
7. The Finance Director shall make any initial determination on a dispute regarding the approval of Qualifying Businesses and the application of the provisions of this Order. Any contested decision of the Finance Director shall be referred to the City Manager for review, and the decision of the City Manager on any matter related to this Order shall be deemed to be final.

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

Date: 4-10 2020



Interim City Manager, City of Durango, Colorado