June 27, 2020

J. Mark Roeber, Chair
Don Suppes, Vice Chair
Mike Lane, Commissioner
Delta County Board of County Commissioners
Delta County Courthouse
501 Palmer Street, Suite 227
Delta, CO 81416-1796

Karen O'Brien
Public Health Director
Delta County Health Department
Kobrien@deltacounty.com

RE: Delta County Variance Request from portions of Public Health Order 20-28

Dear Commissioners and Director O'Brien:

Thank you for your second application to the Colorado Department of Public Health and Environment (CDPHE) requesting a variance to portions of Public Health Order 20-28 Safer at Home. I have had an opportunity to review your request and consider the information provided, and determine that the request is partially approved, with some amendments, as explained further below.

As stated in Appendix G to PHO 20-28, when reviewing a variance request, we evaluate the current prevalence of COVID-19 in the jurisdiction, including whether cases are increasing, stable, or decreasing. Your application addresses particular requirements that you propose as an alternative to the Safer at Home model for each of these areas. The data and information included in your request demonstrates that Delta County has reported 82 COVID-19 cases to date with 6 cases in the last two weeks, putting Delta County in the “low” variance category - see here for more information.

Based on the low disease prevalence in Delta county as assessed in this variance review, the following standard is applied to determine the maximum capacity in the indoor and outdoor settings for which you have applied: for all indoor and outdoor spaces, in order to achieve 6 feet distancing, the limit is 50% of the posted occupancy code ensuring a minimum 28 square feet per person not to exceed more than 175 people gathered in a confined indoor space at any given time, and not to exceed 250 in an outdoor space. We are not approving any request to
exceed 50% capacity in any setting, as that would exceed the variance framework and also goes beyond what is contemplated for the next phase of Protect our Neighbors.

Below we have addressed each of your requests in turn, applying the capacity limitation of 50% of the posted occupancy code not to exceed more than 175 people gathered in a confined indoor space or 250 people in an outdoor space at any given time as described above:

- **Gatherings:** Increase allowable gathering size to 50 people, and Outdoor Event organizers must submit a detailed plan to Delta County Health Department at least 3 weeks prior to the event
  - Request approved

- **Personal Recreation:** requests approved, modified, or denied as described below
  - Increase to 50 people the number of people allowed to participate in Recreation Camping/Sports/Gyms, or as specified below:
    - Playgrounds and outdoor sports facilities open for use with no limit on # of people or % capacity
      - Request modified to the capacity caps above
    - Outdoor swimming pools increase to 75% capacity
      - Request denied
    - Trail and conservation crews up to 25 people
      - Request approved
    - Youth/Adult sports up to 50 outdoors or 10 indoors
      - Request approved
    - Gyms/rec centers up to 75% occupancy rate per room
      - Request modified to the capacity caps described above
    - Small, unmanned workout facilities will be permitted to operate under the 75% capacity standard
      - Request denied
    - Competitive events permitted up to 50 people gathered
      - Request approved

- **Outdoor events:** What you have requested for outdoor events is less than what the current amended public health order authorizes; therefore, no variance is necessary. Below is a summary of your requests.
  - Rodeos in groups larger than 25 people per area and maintain 6-feet apart except when competing in events, maximum group attendance on grounds should be limited to 175 individuals.
  - Festivals up to 175 people allowed
  - Parades with no limit on size of parade or spectators
  - Fourth of July Fireworks move the show from inside city limits at Confluence Lake to a location outside city limits, a location that has limited roads, no mass parking areas, and will be visible from 60% of the county.

- **Life Rites:** Increase indoor group capacity to 75%
  - Request denied

- **Restaurants and Bars:** Request denied
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- Restaurants, food courts, cafes, coffeehouses, and other places of accommodation offering food or beverage for on-premises consumption reopen at 75% capacity indoors
- Wineries, tasting rooms, special licensees and outdoor venues offering alcoholic beverages reopen at 75% capacity

**Indoor events:** requests approved, modified, or denied as described below
- Movie theatres and performance theatres reopen up to 75% of capacity.
  - Request denied
- Public Libraries and Museums may reopen to 50% capacity or 50 people per building, whichever is less.
  - Request approved

**Amusement parks** reopen up to 75% of capacity.
- Request denied. Note that amusement parks are not authorized to open under Public Health Order 20-28, as amended.

**Non-Critical Retail** operate at 75% capacity or 75 people, whichever is fewer
- Request denied as to operating above 50% capacity; approved as to up to 75 people with appropriate distancing.

**Non-Critical Office Based Businesses:** allow 100% of employees, not to exceed 75 employees in one building.
- Request denied as to operating above 50% capacity; approved as to up to 75 people with appropriate distancing.

**Non-Critical Manufacturing:** in a production environment may allow 100% of employees to return to work, not to exceed 75 employees in one building.
- Request denied as to operating above 50% capacity; approved as to up to 75 people per building with appropriate distancing.

**Houses of Worship** indoor worship 75% of the posted occupancy limit indoors
- Request denied.

**Business and Government Functions** avoid gatherings of more than 75% of room occupancy load.
- Request denied.

**Limited healthcare settings** may only be performed at a maximum of 75% occupancy for the location, recommended to limit to 10 or fewer people in a common space.
- Request for 75% occupancy denied.

This variance approval is granted based on the facts and circumstances today as you have described them in your request, and is subject to adjustment if conditions worsen as described here. If the County observes 8 or more cases in a two week period, notify CDPHE and then implement a mitigation plan for 2 weeks to try and restore virus transmission levels to the baseline under which the variance was approved. If after 2 weeks the levels are not restored, then the capacity limits are automatically adjusted to the maximum of the new level (low goes to medium, medium goes to high). If the county started at the “high” level for the variance, and after the 2 weeks of mitigation the baseline has not been restored, then the variance is rescinded. This standard for variance review applies to all variances currently in effect in Delta.
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county. Additionally, CDPHE reserves the right to modify or rescind this variance approval as circumstances warrant. This approval is in effect until the final expiration of PHO 20-28, which will be extended in some capacity beyond the current expiration date of June 30, 2020.

I appreciate your thoughtful approach to these challenging issues, and wish you all the best in your continuing efforts to ensure that Delta county residents are safe and healthy as we deal with this global pandemic. Delta county is a valued partner, and we are available to answer any questions and work with you on these matters. Please give me a call if you have any questions.

Sincerely,

Jill Hunsaker Ryan, MPH  
Executive Director

\[Signature\]