



**COLORADO**  
Department of Public  
Health & Environment

May 19, 2020

Mayor Michael B. Hancock  
City and County of Denver  
Office of the Mayor  
City and County Building  
Denver, CO 80202-5390

Robert M. McDonald  
Public Health Administrator, City and County of Denver  
Executive Director, Denver Department of Public Health and Environment  
101 W. Colfax Ave., Suite 800  
Denver, CO 80202

RE: City and County of Denver Variance Request from portions of **Executive Order D 20 044** and **Public Health Order 20-28**

Dear Mayor Hancock and Director McDonald:

Thank you for your application to the Colorado Department of Public Health and Environment (CDPHE) requesting a variance to portions of **Executive Order D 20 044 Safer at Home** and **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 approved, with some amendments, as explained further below. This variance approval is limited to the operations of the Denver Botanic Gardens; in all other respects, the requirements of the Safer at Home Executive Order and Public Health Order remain in effect for the City and County of Denver (Denver).

You asked for a variance related to allowing the Denver Botanic Gardens (Gardens) to open on a limited basis. Your application specifies the particular requirements that you propose as an alternative to the Safer at Home model for operating the Gardens. The data and information included in your request demonstrates that Denver has a strong public health surveillance system, sufficient hospital capacity, and appropriate thresholds for rolling back the variance if conditions worsen. We further understand that your proposal to cap admissions at 250 in 2 hour increments equates to 11 people per acre and approximately 25% of your typical attendance, which we agree is a reasonable reduced opening proposal. We view the risk of disease transmission at the Gardens, while not identical, similar to an outdoor park setting, providing a low contact environment where ongoing, sustained contact by individuals outside of one's household can be avoided and social distancing can be maintained at all times. This safer, while not risk free, outdoor environment, coupled with the protections that you describe in

City and County of Denver Variance  
May 19, 2020

your plan and the few additional requirements below, provide a reasonable basis for the approval of the variance application.

Your application states that Denver will monitor multiple data points to determine whether the variance is effective and may remain in place, including case rates, hospital admissions, percent of positive tests, and available hospital beds. We reached out to Director McDonald to understand this further, and he indicated that appropriate thresholds for triggering more restrictions include 2 cases from the Gardens, at which time controls consistent with other outbreak investigations would be utilized, and additional restrictions would be imposed if more cases occurred.

With respect to the requirements proposed for opening the Gardens, in addition to the conditions described in your Plan, the following is also required:

- Employees and contracted workers shall be monitored daily for symptoms, and symptomatic employees shall be excluded from the workplace and isolated until they are fever free for 72 hours, other symptoms have improved, and at least 10 days have passed since they became symptomatic.
- Ensure adequate staffing to monitor visitor traffic and disallow groups larger than 10 from gathering to view an exhibit.
- The application limits group gatherings generally to no more than 10 people, but does not specify a class limit for onsite educational opportunities. Onsite educational opportunities must also be limited to no more than 10 people.

The application also briefly described a second phase of opening for the Gardens, but did not provide much detail as to the conditions that would need to be met for this phase to begin, and what restrictions, if any, would be in place during this phase. As such the second phase is not approved at this time, but we can review this phase at a later date if you submit additional information.

This variance approval is granted based on the facts and circumstances today as you have described them in your request. If the County's trigger of 2 or more cases associated with the Gardens leads to additional cases traced to the Gardens, this variance is automatically rescinded. 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 currently is set to expire on May 26, 2020 but may be extended.

I appreciate your thoughtful approach to these challenging issues, and wish you all the best in your continuing efforts to ensure that Denver residents are safe and healthy as we deal with this global pandemic. Denver 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.

City and County of Denver Variance  
May 19, 2020

Sincerely,

A handwritten signature in black ink that reads "Jill Hunsaker Ryan". The signature is written in a cursive, flowing style.

Jill Hunsaker Ryan, MPH  
Executive Director