



CITY OF OURAY
Community Development
 320 6th Avenue
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 Ouray, Colorado 81427
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 www.cityofouray.com

FOR STAFF USE ONLY	
Permit Number:	_____
Receipt Number:	_____

2020 TEMPORARY LICENSE SPECIAL ORDINANCE ALLOWING PRIVATE SALES ON CITY RIGHTS-OF-WAY APPLICATION AND TEMPORARY LICENSE

APPLICANT/PERMITEE INFORMATION

Name _____	Business Name, if applicable _____
Mailing Address _____	Physical Address of Encroachment _____
City, State and Zip Code _____	Phone _____ E-mail _____

<input type="checkbox"/> Outdoor Food Service (\$150/yr – waived for 2020)
<input type="checkbox"/> Outdoor Food & Alcohol Service (\$150/yr – waived for 2020)

Attach a certificate of insurance evidencing valid and effective policies of worker’s compensation insurance and public and property liability insurance, naming the City and its officers and employees as an additional insured on the liability policy at least to the limits required with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) in the aggregate.

Description of the Temporary Outside Area:

Description of sales / use to occur on the City right-of-way:

- Attach a diagram and narrative detailing the following:
- The proposed boundary and location of the area to be served.
 - Indicate and describe the barriers and signage that will be provided delineating the new service area.
 - Demonstrate the location and quantity of tables and chairs to be serviced (address compliance with social distancing requirements)
 - If serving alcohol, describe how the area will be monitored and kept free of minors.

OPTIONAL: Adjoining Property Owner Permission (if requesting to use ROW adjacent to another building owner or business):

Name of Adjoining Property Owner 1

Signature of Adjoining Property Owner 1

Name of Adjoining Property Owner 2

Signature of Adjoining Property Owner 2

By signing this permit, the Applicant/Licensee agrees to comply with all the conditions of this license and all other City regulation and ordinances and represents that all information in its Application is true and correct:

Applicant Signature _____ Date _____

This license is hereby approved and found to be in compliance of the regulations temporarily adopted by Ordinance 6, Series 2020 of the City of Ouray:

Staff Signature _____ Date _____

**CITY OF OURAY
LICENSE PROGRAM**

**ON-PREMISE FOOD ESTABLISHMENT TEMPORARY USE
OF SIDEWALKS AND CITY ROW**

I. SCOPE AND PURPOSE

On-premises food establishments have been closed, except for takeout or to-go. To open, the establishments must arrange their inside dining for social distancing such that they lose table space. To offset the table loss and encourage social distancing, the Colorado Liquor Enforcement Division has loosened its rigorous modification of premises application, making it easier to expand and serve liquor outdoors so long as the outdoor space is contiguous to the current space.

This License Program allows On-Premise Food Establishments to expand outdoors onto City sidewalks and other rights-of-way, allowing for outside dining expansion whether they have a liquor license or not. Those that have a liquor license have a two-step process. First, a City permit must be obtained which includes a lease for certain City ROW. Second, those with a liquor license must obtain a modification of premises through the new expedited state process. The grant of the City permit is not a guaranty you will obtain permission from the state but the City has made efforts to mirror its standards with the state requirements.

II. DEFINITIONS

- A. *On-Premise Food Establishment* means any Restaurant, Hotel, Brew Pub, Brewery, Distillery, Winery, Bar, Tavern, or other establishment serving food so long as it offers at a minimum, food products such as sandwiches or light snacks, whether it operated under a state liquor license or not.
- B. *Temporary Outside Area* means an area located on a sidewalk or other City ROW that is immediately adjacent to the On-Premise Food Establishment premises.

III. LICENSE REQUIRED; FEES; TERM; EXEMPTION

- A. Any On-Premise Food Establishment may, upon the granting of a temporary modification of premises application issued administratively by City staff, serve food and beverages in a Temporary Outside Area located on a sidewalk or other City ROW or where the use of the sidewalk or City ROW would allow access to an adjacent outside area.
- B. The application fee for this temporary license shall be waived. On-Premise Food Establishments are responsible for the costs of all necessary barriers, signage and any other required personal property purchases.
- C. This temporary license shall expire on September 12, 2020, unless extended by subsequent rule or other action of the City and licensee is not required to pay an additional modification of licensed premises fee or obtain approval to remove a temporary modification to the licensed premises upon expiration of this Resolution.
- D. This Temporary License does not allow any material change in the interior of any premises that would affect the basic character of the premises or the physical structure.

IV. ELIGIBILITY FOR TEMPORARY LICENSE

- A. An approved diagram of the currently On-premise Food Establishment and a diagram of the proposed changes to allow for the Temporary Outside Area, including the use of barriers approved by the City and the state licensing authority, as applicable.
- B. The diagram must include the location of all required warning signs to be posted in areas visible to the public, including all points of ingress and egress, and signs regarding laws against public consumption of food or beverages beyond the barriers, as well as any other alcohol related signed, as applicable.

- C. Along with a detailed diagram, a control plan must be submitted which specifically addresses the number of seats that will be available in the Temporary Outside Area; how the servers will prevent food or beverages from going beyond the barriers; and how all City, County, State and any Public Health laws will be adhered to, as applicable.
- D. Possession, by the licensee, of the changed premises by temporary lease arrangement between City and licensee for use of sidewalk or City ROW.
- E. The licensee's premises, as temporarily modified, must comprise a definite contiguous area and a sidewalk or City ROW can provide access to achieve such contiguous area.
- F. The licensed premises, as temporarily modified, will not encroach upon, or overlap with the licensed premises of any other licensee.
- G. The licensed premises, as temporarily modified, complies with local building and zoning laws.
- H. The licensed premises, as temporarily modified, complies with all other restrictions and requirements imposed by the Colorado liquor code and rules, if applicable.
- I. Any local, state, and federal taxes are timely paid.
- J. No permanent structure shall be erected on any sidewalk to City ROW.
- K. Tables seating no more than six shall be used.
- L. Umbrellas may be allowed so long as the City is satisfied the wind cannot lift the umbrellas into traffic or the public causing injury or harm.
- M. Smoking shall not be allowed on any Temporary Outside Service Area.
- N. On-premise Food Establishments shall provide adequate space for pedestrian traffic which complies with the American with Disabilities Act of 1990. Tables or chairs may not prohibit walking traffic on the sidewalks.
- O. All costs are paid.
- P. Permittee must file with the City a certificate evidencing valid and effective policies of worker's compensation insurance and public and property liability insurance, naming the City and its officers and employees as an additional insured on the liability policy at least to the limits required with minimum limits of

One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) in the aggregate.

V. FACTORS FOR GRANT OF TEMPORARY LICENSE

No temporary license for using City sidewalks or other City ROW for a Temporary Outside Area shall be granted unless the City finds that the following criteria have been met:

- A. The possession, by the licensee, of a lease with the City for the use of City sidewalk or other ROWs.
- B. Compliance with the applicable zoning laws of the City regulations.
- C. Balances the safety of patrons, pedestrians, and traffic such that no such group shall be subject to an unreasonable risk of harm if the temporary license is granted.

VI. ENFORCEMENT PROVISIONS

- A. It shall be unlawful to violate any of the provisions of this ordinance, or of the permit issued hereunder. In addition, continuing violations of this ordinance, or of any permit issued hereunder is declared a nuisance, which may be abated in any lawful manner.
- B. The penalties for violation of this ordinance shall be as set forth under the general penalty provision of Ouray Municipal Code 1-4.
- C. The permittee's rights hereunder are subject to the police powers of the City. The Permittee shall comply with all applicable laws and ordinances enacted, or hereafter enacted, by the City or any other legally constituted government unit having lawful jurisdiction over the subject matter hereof. The City reserves the right to exercise its police powers, notwithstanding anything in this section, any permit issued hereunder, any franchise, or any other permit to the contrary. Any conflict between the provisions of this Ordinance, any franchise or any permit and any other present or future lawful exercise of the City's police powers shall be resolved in favor of this ordinance.
- D. Any revocation of any permit issued herein shall be in compliance with Ouray Municipal Code 13-3-F-17 and 18.