

AGENDA

OURAY CITY COUNCIL

COUNCIL WILL MEET IN PERSON at the Massard Auditorium, Ouray Community Center

VIRTUAL WORK SESSION FOR PUBLIC

Virtual Work Session
THURSDAY MAY 21, 2020 at 9am

Join Zoom Meeting
<https://zoom.us/j/92327552140>
Meeting ID: 923 2755 2140
Password: 032004

OR BY PHONE

+1 253 215 8782
+1 346 248 7799
+1 408 638 0968
+1 669 900 6833
+1 646 876 9923

If there are issues with the Zoom Meeting, we will go to phone conference:

800-941-0912
PIN: 594536#

Work Session – 9am

- Electronic copies of the Council Packet are available on the City website at www.cityofouray.com. A hard copy of the Packet is also available at the Administrative Office for interested citizens.
 - Action may be taken on any agenda item
 - Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration
1. POSSIBLE OPPORTUNITIES FOR INCREASING OUTDOOR FOOD/SHOPPING EXPERIENCES UTILIZING CITY RIGHTS-OF-WAY
 2. INTRODUCTION OF TEMPORARY PERMIT PROCESS TO ALLOW OUTDOOR FOOD AND BEVERAGE RESTAURANT SERVICE USING CITY RIGHTS-OF-WAY TO INCREASES THE PREMISES SQUARE FOOTAGE FOR OUTDOOR SOCIAL DISTANCING

AGENDA
OURAY CITY COUNCIL SPECIAL MEETING

COUNCIL WILL MEET IN PERSON at the Massard Auditorium, Ouray Community Center

THURSDAY MAY 21, 2020 at 10:30am

VIRTUAL MEETING FOR PUBLIC

Join Zoom Meeting

<https://zoom.us/j/95661113349>

Meeting ID: 956 6111 3349

Password: 015758

+1 253 215 8782

+1 408 638 0968

If there are issues with the Zoom Meeting, we will go to phone conference:

800-941-0912

Pin: 594536#

Special Meeting – 10:30am

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1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ACTION ITEMS
 - a. Emergency Ordinance Regarding Sales, Dining, and Liquor on City Property
 - b. Resolution Regarding Requested Temporary Banner Placement at Fellin Park
5. ADJOURNMENT

**CITY OF OURAY
ORDINANCE 2020-06**

**A STANDALONE EMERGENCY ORDINANCE OF THE CITY OF OURAY
ALLOWING FOR TEMPORARY SIDEWALK FOOD SERVICE AREA
PERMITS TO EXTEND FOOD SERVICE PREMISES FOR INCREASED
OUTDOOR SEATING AND SETTING FORTH REGULATIONS.**

WHEREAS, Colorado state statutes authorize the City of Ouray (City) to regulate the use of sidewalks, streets and alleys pursuant to C.R.S. § 31-15-702 et. Seq., so long as public rights-of-way and the Americans with Disabilities Act (ADA) requirements remain in effect;

WHEREAS, due to the COVID-19 pandemic, on-premises food services were closed, and take out, and other delivery methods were put into place;

WHEREAS, as Colorado now starts to re-open, the City Council desire to pass this emergency ordinance to allow food services to re-open in compliance with state regulations, authorizing food services to increase its outdoor seating by serving on sidewalks, parking lots or other City ROWs temporarily to facilitate social distancing by employees and customers and to facilitate compliance with the requirements of applicable public health orders;

WHEREAS, many on-site food services operate with a state liquor license such that the Colorado Liquor Enforcement Division has developed an extensive plan to re-open and allow increased outdoor seating to comply with evolving changes in public health orders under 1 CCR 203-2:47-302, which allows a temporary modification of premises;

WHEREAS, the Plan, adopted on an emergency basis to assist the Colorado Department of Public Health and Environment, County Health Departments, City and County Law Enforcement Partners and the Colorado Liquor Enforcement Division by providing safety guidelines, allows liquor licensed premises to serve outside without going through a lengthy modification of premises on its liquor license;

WHEREAS, the City desires to allow sidewalk service for on-premises food service with or without a liquor license and to follow the guidelines of the Colorado Liquor Enforcement Division when allowing service of food and beverages on outside on sidewalks and other City ROWs; and

WHEREAS, this ordinance does not replace or supplant any requirements of the state liquor enforcement division with respect to a modification of premises license and the City has no control over such a license.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF OURAY, COLORADO that:

1. This Ordinance is necessary for the immediate preservation of public property, health, welfare, peace and safety.

2. This ordinance, including the temporary license program attached as Exhibit 1 is hereby adopted and will remain in effect until September 12, 2020 or upon such further action of this Council.
3. This ordinance is effective immediately and shall be published in the newspaper as soon as practical.

CITY OF OURAY

By: _____
Greg Nelson, Mayor

ATTEST:

Melissa M. Drake, City Clerk

**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 \$150.00. In addition, 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 licenses 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.

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 for any On-premises Food Establishment to serve food or beverages using City sidewalks or other City ROW in violation of this ordinance.
- B. The penalties for violation of this ordinance shall be as set forth under the general penalty provision of Ouray Municipal Code 1-4.

RESOLUTION NO. 2020-06

**A RESOLUTION OF THE CITY OF OURAY, COLORADO,
PROVIDING AUTHORITY FOR A BANNER TO BE PLACED IN
FELLIN PARK FOR 30 DAYS.**

WHEREAS, the City of Ouray (City) owns Fellin Park; and

WHEREAS, City Council desires to allow a student group to place a banner on the fence for 30 days despite that the banner does not comply with the Ouray Municipal Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF OURAY, COLORADO**, that City Council authorizes the student group to place a banner thanking Unified Command on the fence at Fellin Park for 30 days.

ADOPTED this 21st day of May 2020 by the Ouray City Council.

CITY OF OURAY, COLORADO

Greg Nelson, Mayor

ATTEST:

Melissa M. Drake, City Clerk