

AGENDA
OURAY CITY COUNCIL SPECIAL MEETING

June 25, 2020 at 9 A.M.

VIRTUAL MEETING

Join Zoom Meeting
<https://zoom.us/j/92807982306>

Meeting ID: 928 0798 2306
Password: 070052

By phone:
+1 408 638 0968
+1 669 900 6833
+1 253 215 8782

- 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 in open session 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. CALL TO ORDER
2. ROLL CALL
3. ACTION ITEMS
 - a. IGA Related to Distribution of CARES Act Funds
 - b. Emergency Ordinance Regarding Open Alcohol Consumption Areas within the City
 - c. Formal Creation of Tourism Advisory Committee
4. EXECUTIVE SESSION
Executive session, pursuant to C.R.S. 24-6-402(4)(f), to discuss personnel matters, specifically candidates for the position of City Administrator
5. ADJOURNMENT

P.O. Box 468
320 Sixth Avenue
Ouray, Colorado 81427



970.325.7211
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www.cityofouray.com

ACTION ITEMS (June 25, 2020):

Intergovernmental Agreement (IGA) Related to Distribution of CARES Act Funds

Action Requested – *Will City Council approve the IGA related to distribution of CARES Act Funds?*

Background – The Federal CARES Act provided funding to states and municipalities with over 500,000 population. The State of Colorado will be providing limited funding to counties, who will, in turn, disburse to municipalities within their boundaries. This IGA between the City of Ouray, Town of Ridgway, and Ouray County is required to receive that funding.

Recommendation – Staff recommends approval

Emergency Ordinance Regarding Open Alcohol Consumption Areas within the City

Action Requested – *Will City Council approve the Emergency Ordinance Regarding Open Alcohol Consumption Areas within the City?*

Background – Colorado Governor's Executive Orders have allowed for open alcohol consumption in public areas to aid businesses in dealing with social distancing and lower capacity requirements due to the COVID-19 Pandemic. City Council directed staff to draft an ordinance for consideration.

Recommendation – Council decision

Formal Creation of a Tourism Advisory Committee

Action Requested – *Will City Council formally create a Tourism Advisory Committee?*

Background – In the Council work session on June 15, 2020 regarding Tourism Fund Spending, Council directed staff to advertise for members of a new committee, the Tourism Advisory Committee. The committee was defined as 7 volunteers (living within the city limits); 1 person in each of the following categories:

- Lodging business
- Restaurant/bar business
- Retail business
- Outdoor Recreation
- Arts/Culture/Historical
- Event Planning/Coordination
- General Citizen not directly involved with tourism

Since this was handled as staff direction in a work session and Mayor Nelson would like to revise this definition of the committee to include Ouray business owners who may not live within the City, staff requests Council to make a formal motion to create the committee.

Recommendation – Council decision

**INTERGOVERNMENT AGREEMENT
RELATED TO DISTRIBUTION OF
CARES ACT FUNDS**

This Intergovernmental Agreement related to the distribution of CARES Act funds ("IGA") is made and effective on June 23, 2020, by and among the Board of County Commissioners of Ouray County, Colorado (referred to as "County"); the City of Ouray, Colorado; and the Town of Ridgway, Colorado (individually referred to as "Municipality" or collectively as "Municipalities"). (The County and Municipalities will jointly be referred to as the "Parties.")

I. RECITALS

- A. The novel coronavirus referred to as COVID-19 has been declared a worldwide pandemic. National, state, and local emergencies have been declared as a result of COVID-19.
- B. All Parties, as local governmental entities, have expended significant effort and funds to protect the community from the impacts of COVID-19 and to slow its spread.
- C. Efforts to slow the spread and protect the community are ongoing and will require continued time and funding. Recovery efforts are also ongoing and will require the additional expenditure of time and funds.
- D. The emergence and rapid spread of COVID-19 was unexpected and unable to be predicted. Therefore, local governments could not have adequately budgeted for such expenses.
- E. The State of Colorado is appropriating \$424,818 of CARES funding to the Parties to reimburse these unbudgeted expenses through the Department of Local Affairs.
- F. The State of Colorado has designated DOLA as the fiscal agent for the funding which will be administered as a reimbursement program following eligibility verification performed by DOLA for the expenses.
- G. All parties recognize that it is in the best interest of the Ouray County community to work cooperatively to ensure that all of the Ouray County allocation is applied to the benefit of Ouray County residents rather than allowing the funds to remain unspent and revert to the state-wide reserve fund pool for reallocation elsewhere in the state.
- H. The criteria for eligibility will be as prescribed in the CARES Act and rules which may be revised from time to time
- I. The Parties wish to agree on an equitable distribution of the appropriated funds for the good of the community.
- J. The Parties have a successful history of working together for the benefit of the community.
- K. County and Municipalities are authorized pursuant to Article XIV, Section 18 of the Colorado Constitution and Section 29-1-201, et seq., Colorado Revised Statutes, to enter into agreements for the purpose of providing any service or performing any function which they can perform individually.

II. CONSIDERATION

NOW, THEREFORE, in consideration of the covenants and obligations herein expressed, the County and Municipalities agree as follows.

III. TERMS AND CONDITIONS

- A. Commencing on 6/23/2020 and continuing until 12/31/2020 the Parties agree to the following in relation to the CARES Act funding available for expenses incurred during the period beginning March 1, 2020 and ending on December 31, 2020.
- B. The obligations of the County and Municipalities to commit or expend funds are subject to and conditioned on the receipt of the CARES Act funds.
- C. The funds will be distributed among the parties as outlined below, which contains the total estimated and projected expenses by each unit of local government in order to establish "drawdown" of funds.
- D. Parties agree to the following formula regarding the distribution of the \$424,818 allocated for all of Ouray County:
 - a. 10% reserve of the total allocation to Ouray County and Municipalities for contingency (\$48,482);
 - b. 58% of the remainder allocated on a per capita basis allocated to the County for COVID emergency expenditures for county-wide Public Health, Emergency Management, Public Information Officer, County Emergency Staffing, Contract Recovery Coordinator and supplies to benefit both the incorporated and unincorporated regions of the county (\$253,075);
 - c. 21% of the remainder allocated on a per capita basis allocated to the Town of Ridgway (\$91,631) to be allocated for COVID emergency expenditures for the benefit of both incorporated and unincorporated regions of the county; and
 - d. 21% of the remainder allocated on a per capita basis allocated to the City of Ouray (\$91,631) to be allocated for COVID emergency expenditures for the benefit of both incorporated and unincorporated regions of the county.
 - e. The distribution formulas referenced above (D. a., b., c., and d.) may be revised in the future based upon actual expenditures incurred by each jurisdiction and procurement needs agreed upon by the Parties.
- E. Each Party is individually responsible for any record keeping, implementing the necessary controls, financial reporting, and accounting related to such funds as required by applicable statute, DOLA guidelines, and any applicable federal or state laws, and for completing all activities necessary to become eligible to receive reimbursement from the CARES Act funds. Failure to do so may result in forfeiture of funds.
- F. Each Party assumes responsibility for the funds distributed to it (other than the other party's assuming responsibility and liability related to any funds distributed to the

party by the County) and also assumes responsibility for ensuring the funds are only used for eligible expenses as determined by DOLA under the CARES act criteria.

- G. Each Party will assume responsibility for initially covering its own costs and await reimbursement from DOLA. No Party will have any expectation of other parties to the agreement providing any money to another.
- H. All Parties may seek partners on projects eligible for CARES reimbursement from among the other Parties signatory to the agreement. No Party is under any obligation to participate in any such partnership.
- I. The parties will confer in late August or early September to share information about the progress of each Party's application of the funds to beneficial use in the community and to consider an adjustment to the allocations stated in paragraph D.
- J. Each Party will keep an appropriate accounting of the expenditure of funds sufficient to meet the requirements of DOLA, and their own accounting practices.
- K. This Agreement is to be construed according to its language using a plain and clear meaning and is deemed to be and contain the entire understanding and agreement between the parties hereto. There shall be deemed to be no other terms, conditions, promises, understandings, statements, or representations, expressed or implied, concerning this Agreement unless set forth in writing and signed by the Parties hereto.
- L. This Agreement cannot be modified except in writing signed by all Parties.
- M. This Agreement will be governed by and its terms construed under the laws of the State of Colorado. Venue for any action shall be in Ouray County, State of Colorado.
- N. Nothing contained herein is deemed or should be construed by the Parties or by any third party as creating the relationship of principle and agent, a partnership or a joint venture between the Parties, or an employment relationship between the Parties.
- O. This Agreement is made for the sole and exclusive benefit of the County and the Municipalities, and it is not made for the benefit of any third party.
- P. Notification to Parties to this Agreement shall be made to the addresses listed on Exhibit A.

BOARD OF COUNTY COMMISSIONERS OF
OURAY COUNTY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

County Attorney

TOWN OF RIDGWAY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

CITY OF OURAY, COLORADO

By: _____

Title: _____

ATTEST:

Approved as to form:

Town Attorney

EXHIBIT "A"

Ouray County:

County Administrator
P.O. Box C
Ouray, CO 81427

Town of Ridgway:

Town Manager
P.O. Box 10
201 N. Railroad Street
Ridgway, CO 81432

City of Ouray:

City Administrator
P.O. Box 468
Ouray, CO 81427

**CITY OF OURAY
ORDINANCE 2020-08**

**A STANDALONE EMERGENCY ORDINANCE OF THE CITY OF OURAY
SUSPENDING THE PROHIBITION OF PUBLIC CONSUMPTION OF
ALCOHOLIC BEVERAGES WITHIN LIMITED AREAS OF THE CITY.**

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 and attempts to remain open, City Council encourages increased outdoor seating be had for the public to enjoy food and drink within the City so social distancing can be achieved;

WHEREAS, on May 18, 2020 Colorado Governor Jared Polis encouraged local governments to look at a variety of options to encourage outdoor dining, including the use of public sidewalks and streets to host outdoor dining, suspending state liquor license prohibitions;

WHEREAS, on May 21, 2020, City passed an emergency ordinance to allow establishments expand their premises to City property for outdoor dining experiences for social distancing;

WHEREAS, on June 5, 2020 Colorado Governor Jared Polis issued Executive Order D 2020-093 suspends the enforcement provisions of C.R.S. § 44-3-901(1)(i)(D)(VII), which prohibits public consumption of alcohol beverages on any public right-of-way, so long as a local jurisdiction permits it;

WHEREAS, the City desires to allow the public consumption of alcohol beverages on certain City rights-of-way, within the limits set forth for the health, safety and welfare of all the public;

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; and

WHEREAS, this ordinance is temporary and shall expire by its terms on September 12, 2020, upon further action of this Council or if the Governor reinstates the prohibition against consuming alcohol in any public-right-of-way.

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 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.
4. Pursuant to the authority granted by Colorado Governor Jared Polis under executive Order D 2020-093, issued June 5, 2020, the City of Ouray hereby authorizes a suspension of the provisions of C.R.S. § 44-3- 901(1)(i)(D)(VII) and any other sections of law or ordinance enacted by the City of Ouray which would prohibit open public consumption of alcoholic beverages in any public place or on any public right of way subject to the limitations included herein.
5. The suspension of the open container law authorized herein is only as to the following limited areas known as City Open Public Consumption Areas:
 - a. Fellin Park; and
 - b. Rotary Park.
6. The map attached as Exhibit A to this ordinance depicts the two City Open public consumption Areas.
7. In the City Open Public Consumption Areas, the City hereby permits possession and consumption, by those who are at least twenty-one (21) years of age and not otherwise prohibited from possession or consumption of alcoholic beverages, of the following types of alcoholic beverages: malt liquors, vinous liquors or spirituous liquors as the same are defined under the Colorado Liquor Code, 44-3-101 *et. seq.*
8. Any alcoholic beverage consumed on City Open Public Consumption Areas shall be confined to the designated area and the public shall arrive to the area with their alcohol beverage in sealed containers, which are defined as:
 - a. any container or receptacle used for holding an alcohol beverage, which container or receptacle is corked or sealed with any stub, stopper, or cap under C.R.S. § 44-3-103(51); or
 - b. any alcoholic beverages sold to a consumer through takeout in a cup or other container closed securely with a lid taped securely to the cup or other container. A plastic lid complies so long as any holes in the lid are sealed securely with tape, no straw is inserted through the lid, and the contents of the cup are not partially removed. Such a cup or other container shall be affixed with a label containing a warning statement, with a minimum fourteen (14) font size, stating as follows: **WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including C.R.S. § 42-4-1305.**
 - c. No sealed container may be made of glass or other breakable materials.
9. Sealed containers must continue to remain sealed during transit from the on-premise retail liquor establishment until the public enters a City Open Public Consumption Area or the public risks a violation of Colorado law under C.R.S. § 44-3-901.
10. Hours for permitted possession and consumption of open containers of alcoholic beverages within

the City Open Public Consumption Areas shall be limited from 11:00 a.m. until 8:00 pm daily.

11. Unless otherwise specifically authorized, amplified music is not permitted in any of the City Open Public Consumption Areas.
12. Use of any of the City Open Public Consumption Areas shall be temporarily suspended if the City previously or subsequently approved use of these areas, including any portion of the same, for any Special Event Liquor License.
13. The City shall continue to enforce provisions under Colorado law and local provisions in the Ouray Municipal Code that prohibit the open or public consumption of alcoholic beverages on all public sidewalks, public parks or any other public property not otherwise specifically suspended herein by the terms of this Ordinance or other provisions of Colorado law.
14. It shall be unlawful to violate any of the provisions of this ordinance and the penalty for a violation is set forth under Ouray Municipal Code (OMC) 1-4 General Penalties provisions.
15. It shall be prima facie evidence that any beverage or liquid is an alcoholic beverage if it is or was contained within a container labeled as an alcoholic beverage container of any sort and if it either looks like, smells like or tastes like an alcoholic beverage.
16. The provisions of OMC 3-13-E concerning special event permits and private events on City property remain in effect.

CITY OF OURAY

By: _____
Greg Nelson, Mayor

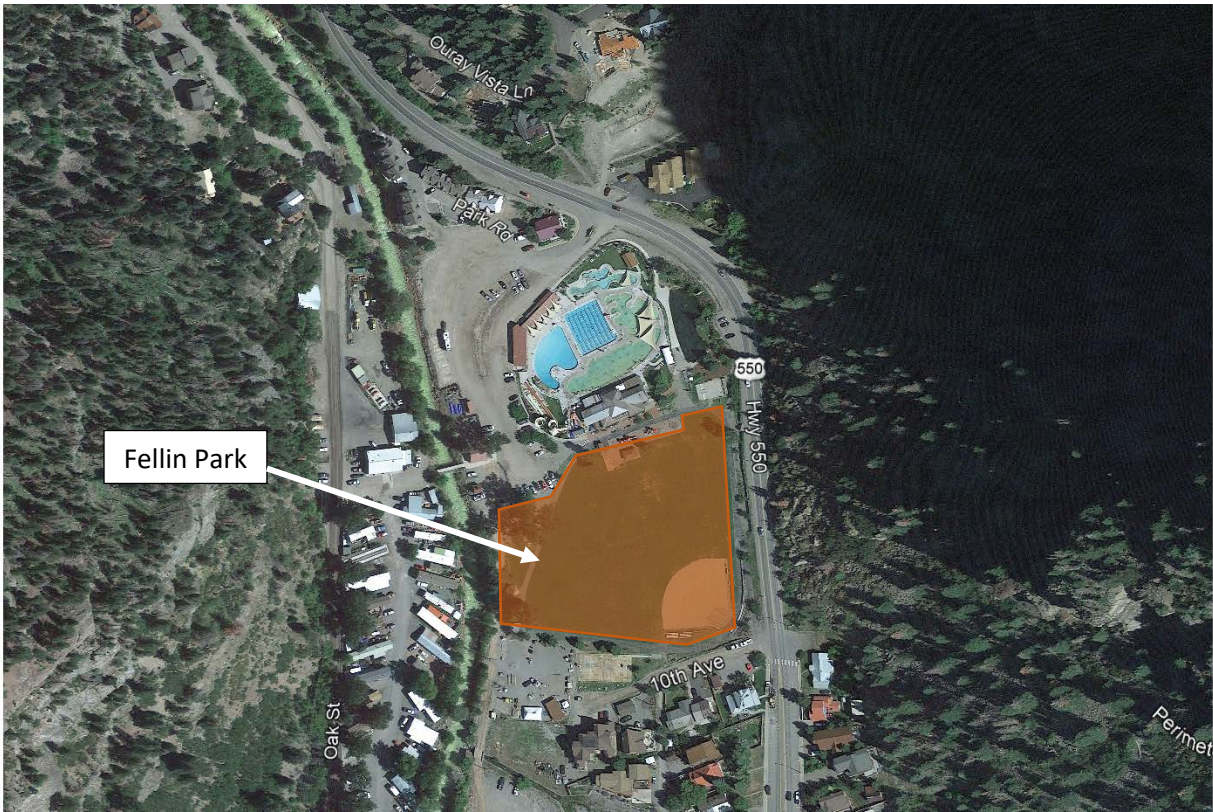
ATTEST:

Melissa Drake, City Clerk

Public Consumption Areas Map



Rotary Park



Fellin Park

City of Ouray Committee Opportunity

The Ouray City Council is forming a new Tourism Advisory Committee for the purpose of advising Council on Tourism Fund spending. They are looking for 7 volunteers (living within the city limits); 1 person in each of the following categories:

- Lodging business
- Restaurant/bar business
- Retail business
- Outdoor Recreation
- Arts/Culture/Historical
- Event Planning/Coordination
- General Citizen not directly involved with tourism

Successful candidates will complete an application and include details on your success in your industry, 3 signatures or letters of support from others in your industry, and a statement of your willingness to serve and cooperate. Past marketing experience is a plus. Email the Acting City Administrator, Melissa Drake, at drakem@cityofouray.com or call her at 970-325-7066. The deadline for applications is July 2nd at 4 pm.

