



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
------------------------	--	-------------------------------------

ITEM:

Resolution 2021-14 – A Resolution of the Salida City Council Amending the Declaration of Local State of Emergency to Provide for the Administrative Facilitation of Outdoor Dining and Retail Spaces Within the City's Rights-of-Way and Public Places, and to Authorize Other Certain Actions as Needed

BACKGROUND:

As the State of Colorado continues to evolve in its response to the COVID-19 pandemic, the City of Salida continues to respond in kind. The state's liquor laws were relaxed in May 2020 to allow for the expansion of its Modification of Premises (MOP) guidelines. The expansion of MOP guidelines remains in effect and continues to allow for temporary expansion of where restaurants and bars can serve alcohol. The Governor has encouraged restaurants and bars to work with local municipalities to allow for their businesses to occupy outdoor seating areas in parking lots, sidewalks, and in some cases the public right-of-way.

In order to facilitate this process, staff has worked to develop Resolution 2021-14 (attached) which would expedite processes to allow for the MOP process to occur. This would allow for any business – not just restaurants and bars – to occupy certain public spaces where appropriate. This Resolution takes into account feedback and experiences from the Summer 2020 temporary shutdown of F Street between Sackett and 2nd Street. Those two blocks of F Street remain the most logical to shut down to traffic (keeping 1st Street open for traffic, as it is a state highway). Based on feedback the following modifications will be implemented in 2021:

- A clear travel path of six-feet (6') down the center of the street will be preserved. Where necessary barrier fencing is available to delineate this pathway from adjacent uses.
- Portable ADA ramps will be provided at various points along the pedestrian area of F Street to provide additional accessibility from the sidewalk curb to the pedestrian area of the street.
- Public amenities such as pergolas with seating will be set up at four (4) points within the public right-of-way along the pedestrian area.
- Ten (10) new trash cans and four (4) new recycling cans will be provided along F Street to provide additional bear-safe and ADA compliant trash and recycling collection points.
- Businesses will be allowed to host activities and entertainment in their expansion space while still ensuring compliance with Chaffee County Public Health guidance for outdoor gatherings.
- Any food truck or cart operation within an outdoor expansion space will need to be owned and operated by the business whose space is being utilized.

Resolution 2021-14 would also assist with businesses not located on F Street. This would allow for any restaurant or bar with a parking lot to expand into that lot for table service. Non-food service



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
------------------------	--	-------------------------------------

businesses with parking lots would also be allowed to expand into that lot. In the event that a portion of a public right-of-way is logical and safe to expand into, such as an existing parking space (except along State Highway right-of-way) or sidewalk, this Resolution would allow staff members to review and approve an MOP for an establishment with a liquor license and a Temporary Outdoor Expansion (TOE) for this purpose. Businesses without a liquor license that wish to expand would apply for a TOE only. It is important to cultivate common rules that each MOP and TOE will be evaluated by:

- **Private Parking Lots:** A maximum of fifty percent (50%) or half of existing private parking lots may be utilized for a restaurant patio extension for a currently-permitted restaurant, subject to the written approval of the owner of the parking lot.
- **Public Sidewalks:** A clear travel path of five feet (5') in width and meeting Americans with Disabilities Act (ADA) accessible path requirements must be maintained and is subject to a revocable license agreement approved by the City. The business owner must provide the City an ADA plan if they wish to close or alter a sidewalk space.
- **Public Streets:** Expansion into public streets and rights-of-way shall be at the sole discretion of the City, subject to any additional terms deemed necessary. Use of public streets shall only occur where streets are restricted to pedestrian traffic only for an entire block. The City will pre-determine four (4) areas, two (2) on each block, as sites for a City-installed pergola with seating. The City will work with adjacent business owners to minimize encroachment into outdoor space being utilized by that business.

A clear travel path of six feet (6') in width must be maintained along the center of the street, three feet (3') on each side of the street centerline. In addition, immovable objects such as patios, planter boxes, boulders, and similar shall be at least five feet (5') from the centerline. The City will use metal fencing or other temporary means to delineate between the business expansion space and the six-foot clear travel path. Bicycles, skateboards, scooters and similar devices must be walked or carried in any area where vehicle traffic is not allowed. In addition to no physical objects, no activity or performance will be allowed to encroach into this travel path.

The remaining area, extending from the curb to within three feet (3') from the centerline of the public street, at a width equal to the street frontage of the individual physical business, shall be available for expansion by that individual business. A business must have a plan for security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur.

- **Public Parking Spaces:** For businesses in the Downtown C-2 district on streets that are not closed to vehicle traffic, the use of the existing public parking spaces adjacent to and in front of the business may be used with the exception of State Highway right-of-way (similar to the City's existing program for patio spaces). In order to use public parking spaces, the business



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
------------------------	--	-------------------------------------

must complete the TOE application with required attachments. In addition, the business must provide a safety plan for patrons utilizing this space, including barriers and fencing, protection from vehicles by physical means, security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur due to business activity. The City may have barriers and fencing available for the business if needed.

- **Temporary Structures and Fences:**

- **Small Tents (<400 s.f.):** Small tents of 400 square feet or less are permitted on a temporary basis. Where tents are proposed, the City encourages the use of tents having a total area of 400 square feet or less to streamline review and approval.
- **Large Tents (>400 s.f.):** Tents that are larger than 400 square feet are subject to additional building and fire code requirements, greater submittal requirements, and a review process that is more extensive than that used for small tents less than 400 square feet in area.
- **Temporary Fences:** Fences of a temporary nature with a maximum height of six feet (6') may be installed in connection with a patio extension, subject to the written approval of the property owner. All fencing, if installed, shall meet building and fire code access requirements, including for egress.

- **Temporary Lighting:** Lighting of a temporary nature may be permitted in connection with a patio extension, subject to City approval and in compliance with the Salida Municipal Code's dark sky provisions.

- **Hours of Operation:** Temporary patio extensions and all activities authorized under this Resolution are required to close by 10:00 p.m.

- **Music, Performance Art, and Outdoor Entertainment:** Businesses may host live performances including but not limited to: musicians, artists, buskers, and speakers as well as outdoor games and entertainment outside of their business. A business must obtain an amplified sound permit from the City for any amplified sound over 65 dB. In no case can the activity or performance area, or audience, encroach upon the six-foot (6') clear travel path down the center of the street, the five-foot (5') clear travel path required on the sidewalks, or any ADA designated paths or appurtenances. Compliance with Chaffee County Public Health guidance for outdoor gatherings will be required.

- **Required Approvals and Permits:** In order to take advantage of this program, the business owner will have to use the Administrative Review of Temporary Outdoor Expansion application form (attached) and provide the City with the following:



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT:	PRESENTED BY:
	Administration	Drew Nelson

- Applicants must file a signed Revocable License for Use of Public Right Of Way or Public Place.
- A conceptual site plan of the proposed expansion area showing existing and proposed features, such as buildings, fences, roads, alleys, sidewalks and parking lots which are relevant to the application. The business must provide the City an ADA accessibility plan for their space.
- For Businesses with an Approved Liquor License: In addition to the conceptual site plan, the plan must include information related to access to and egress from the patio by both patrons and staff; a layout of tables, chairs, and serving stations; spacing required for social distancing; and sanitation plans and programs.
- **For Food Trucks and Mobile Food Vendors:** Businesses along the F Street closure may have a food truck or mobile food vending operation in their allocated outdoor area. However the business owner or property owner must own and operate the food truck or mobile food vending operation. The business must provide a plan for their food truck, cart, etc. which would include hook-ups for power and water as well as whether the food truck, cart, etc. would be able to remain in place for the duration of the F Street closure. Only smaller equipment that can be moved by hand will be allowed to be removed on a regular basis. Generators will not be allowed. Power must be sourced from the adjacent business, and power cords must have appropriate ADA compliant coverings. All food vendors must have required Health Department permits.
- **Prior Approval Required:** Any business seeking to utilize this program for a Modification of Premise must receive prior approval by both the City and State of Colorado Liquor Enforcement Division (LED) prior to operation. The MOP licenses are currently being reviewed concurrently by both the City and LED. There is a \$150 application fee payable to the LED. There is no fee for the City of Salida. Businesses with an approved liquor license may sell to-go beverages that are not to be consumed in public areas.

In addition, the City Attorney has developed the attached Revocable License for Use of Public Right Of Way or Public Place. This standard agreement will be put in place for every business that wishes to use streets, sidewalks, or other places (specifically excluding public parks) to provide for liability protection, damage protection, and revocability of the license once need/demand for the space abates. Staff anticipates that in most cases, the demand for outdoor spaces will last through the summer.

FISCAL NOTE:

The City is currently assessing costs for this program. Staff anticipates that with a closure of a public street there will be a need for signage, monitoring, and aesthetic improvements. A CDOT Revitalizing Main Streets grant has been obtained that will provide trash and recycling cans,



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: May 4, 2021

AGENDA ITEM NO.	ORIGINATING DEPARTMENT: Administration	PRESENTED BY: Drew Nelson
------------------------	--	-------------------------------------

pedestrian amenities and barrier fencing. Currently, we anticipate costs between \$5,000 and \$10,000 in hard infrastructure, with personnel costs unknown.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2021-14.

SUGGESTED MOTIONS:

A City Councilperson should make a motion to approve Resolution 2021-14, followed by a second and a roll call vote.

RESOLUTION NO. 2021 – 14

A RESOLUTION OF THE SALIDA CITY COUNCIL EXTENDING THE AMENDMENT TO THE DECLARATION OF LOCAL STATE OF EMERGENCY TO PROVIDE FOR THE ADMINISTRATIVE FACILITATION OF OUTDOOR DINING AND RETAIL SPACES WITHIN THE CITY’S RIGHTS-OF-WAY AND PUBLIC PLACES, AND TO AUTHORIZE OTHER CERTAIN ACTIONS AS NEEDED

WHEREAS, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City by and through its City Council (“Council”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, on March 13, 2020, pursuant to Salida Municipal Code section 2-17-10, the City of Salida declared a State of Emergency via proclamation, and many times since, up to and including April 6, 2021, the City of Salida extended that local state of emergency; and

WHEREAS, section 2-17-20 of the Salida Municipal Code states that proclamation of local state of emergency “may contain such other regulations as the Mayor deems necessary and proper to the maintenance of public peace, order and safety;” and

WHEREAS, on May 15, 2020, due to public health concerns raised by the presence of COVID-19 in the state, the Liquor Enforcement Division for the State of Colorado (“LED”) issued Emergency Regulation 47-302 in Bulletin 20.07 (“Emergency Regulation 47-302”) establishing procedures for a licensee seeking to temporarily modify the licensed premises, including into outdoor areas and the LED has extended and expanded such procedures to continue to assist local businesses throughout the State; and

WHEREAS, on June 2, 2020, in order to facilitate the business of licensees and the business needs of all retailers during periods of mandated social distancing, the Salida City Council authorized administrative review and approval of temporary outdoor expansion applications and revocable licenses to encroach in the City’s rights-of-way and public places via Resolution 2020-20; and

WHEREAS, the Salida City Council finds and declares that, given the current circumstances, and the ongoing effects of the global pandemic, it is still in the best interests of the health, welfare, and safety of Salida residents, businesses and customers to continue to permit administrative review and approval of temporary outdoor expansion applications and revocable licenses to encroach in the City’s rights-of-way to continue to accommodate business during the local disaster emergency and mandatory social distancing, and continue authorizing other certain actions, as needed, during the local state of emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALIDA THAT:

Section 1. The Salida City Council incorporates the foregoing recitals as its conclusions, facts, determinations and findings.

Section 2. In association with the City's Declaration of Emergency, the Mayor and City Administrator are hereby further directed and each individually authorized to take each of the following actions upon a finding that such action is necessary to protect the public health, safety and welfare:

- a. To administratively review and approve temporary outdoor expansion applications and revocable licenses to encroach upon the City's rights-of-way and public places in order to facilitate expansion of retailers and of outdoor seating areas for dining, in accordance with Colorado Department of Public Health and Environment social distancing requirements.
- b. To expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with City purchasing procedures on the condition that every such action shall be presented to the City Council for ratification as soon as practical thereafter.
- c. To direct the transfer or temporary reassignment of City personnel and resources for the purposes of performing or facilitating public health emergency services.
- d. To utilize all available resources of the City as may be reasonably necessary to cope with this public health emergency whether in preparation for, response to, or recovery from this public health emergency.
- e. To temporarily suspend parking requirements, zoning restrictions or other applicable regulations, in order to facilitate the temporary expansion of retailers, liquor licensees and dining establishments.

Section 3. This Resolution shall stay in effect until termination of the City's emergency declaration.

RESOLVED, APPROVED, AND ADOPTED this 4th day of May, 2021.

CITY OF SALIDA

By: _____
P.T. Wood, Mayor

[SEAL]

ATTEST: _____

City Clerk/Deputy City Clerk



REQUIREMENTS AND POLICIES FOR EXPANDING BUSINESS ACTIVITY INTO PARKING LOTS, PARKING SPACES AND STREETS

The City of Salida desires to work with businesses throughout our community to pivot towards operating with safe and healthy best practices during our fight with Covid-19. On Tuesday, May 4th, the Salida City Council approved Resolution 2021-14, which directed City staff to facilitate the expansion of outdoor dining and retail spaces into parking lots, parking spaces, and even public streets.

In order to proceed with expansion, there are a few rules that businesses must apply as part of an application process:

For Restaurants and Bars with a Liquor License

LED Temporary Modification of Premises (MOP) obtained last year are still valid. Any bar or restaurant without an MOP from last year wanting to expand their existing licensed premise into parking lots or streets must apply for a Modification of Premise (MOP) with both the City of Salida as well as the Colorado Liquor Enforcement Division (LED). These MOP applications are being reviewed concurrently by both the City and the LED. Application forms can be found at:

https://www.colorado.gov/pacific/sites/default/files/DR%208442_e_wo_2.pdf

There is a \$150 processing fee payable to the State of Colorado. There is no fee for the City of Salida. Businesses with an approved liquor license may sell to-go beverages that are not to be consumed in public areas.

Private Parking Lots

A maximum of fifty percent (50%) or half of existing private parking lots may be utilized for a restaurant patio extension for a currently-permitted restaurant, subject to the written approval of the owner of the parking lot.

Public Sidewalks

A clear travel path of five feet (5') in width and meeting Americans with Disabilities Act (ADA) accessible path requirements must be maintained and is subject to a revocable license agreement approved by the City. The business owner must provide the City an ADA plan if they wish to close or alter a sidewalk space.

Public Streets

Expansion into public streets and rights-of-way shall be at the sole discretion of the City, subject to any additional terms deemed necessary. Use of public streets shall only occur where streets are restricted to pedestrian traffic only for an entire block. The City will pre-determine four (4) areas, two (2) on each block, as sites for a City-installed pergola with seating. The City will work with adjacent business owners to minimize encroachment into outdoor space being utilized by that business.

A clear travel path of six feet (6') in width must be maintained along the center of the street, three feet (3') on each side of the street centerline. The City will put up metal fencing or other temporary means to delineate between the business expansion space and the six-foot clear travel path. Bicycles, skateboards, scooters and similar devices must be walked or carried in any area where vehicle traffic is not allowed. In addition to no physical objects, no performance will be allowed to encroach into this travel path.

The remaining area, extending from the curb to within three feet (3') from the centerline of the public street, at a width equal to the street frontage of the individual physical business, shall be available for expansion by that individual business. A business must have a plan for security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur.

Public Parking Spaces

For businesses in the Downtown C-2 district on streets that are not closed to vehicle traffic, the use of the existing public parking spaces adjacent to and in front of the business may be used with the exception of State Highway right-of-way (similar to the City's existing program for patio spaces). In order to use public parking spaces, the business must complete the TOE application with required attachments. In addition, the business must provide a safety plan for patrons utilizing this space, including barriers and fencing, protection from vehicles by physical means, security (including overnight), trash maintenance and removal, and rehabilitation for any damage or mess that may occur due to business activity. The City may have barriers and fencing available for the business if needed.

Temporary Structures and Fences

Any proposed structure or fence shall be secured utilizing weights. Anchors involving drilling or fastening to the roadway infrastructure shall be reviewed on a case-by-case basis.

- **Small Tents (<400 s.f.):** Small tents of 400 square feet or less are permitted on a temporary basis. Where tents are proposed, the City encourages the use of tents having a total area of 400 square feet or less to streamline review and approval.
- **Large Tents (>400 s.f.):** Tents that are larger than 400 square feet are subject to additional building and fire code requirements, greater submittal requirements, and a review process that is more extensive than that used for small tents less than 400 square feet in area.
- **Temporary Fences:** Fences of a temporary nature with a maximum height of six feet (6') may be installed in connection with a patio extension, subject to the written approval of the property owner. All fencing, if installed, shall meet building and fire code access requirements, including for egress.

Temporary Lighting

Lighting of a temporary nature may be permitted in connection with a patio extension, subject to City approval and in compliance with the Salida Municipal Code's dark sky provisions.

Hours of Operation

Temporary patio extensions and all activities authorized under this Resolution are required to close or cease by 10:00 p.m.

Music, Performance Art, and Outdoor Entertainment

Businesses may host live performances including but not limited to musicians, artists, buskers, and speakers as well as outdoor games and entertainment outside of their business. A business must obtain an amplified sound permit from the City for any amplified sound over 65 dB. In no case can the activity or performance area, or audience, encroach upon the six-foot (6') clear travel path down the center of the street, the five-foot (5') clear travel path required on the sidewalks, or any ADA designated paths or appurtenances.

Required Approval and Permits:

In order to take advantage of this program, the business owner will have to use the Administrative Review of Temporary Outdoor Expansion application form and provide the City with the following:

- Applicants must file a signed Revocable License for Use of Public Right Of Way or Public Place.
- A conceptual site plan of the proposed expansion area showing existing and proposed features, such as buildings, fences, roads, alleys, sidewalks and parking lots which are relevant to the application. The business must provide the City an ADA accessibility plan for their space.
- For Businesses with an Approved Liquor License: In addition to the conceptual site plan, the plan must include information related to access to and egress from the patio by both patrons and staff; a layout of tables, chairs, and serving stations; spacing required for social distancing; and sanitation plans and programs.

For Food Trucks and Mobile Vendors

Businesses along the F Street closure may have a food truck or mobile food vending operation in their allocated outdoor area. However the business owner or property owner must own and operate the food truck or mobile food vending operation. The business must provide a plan for their food truck, cart, etc. which would include hook-ups for power and water as well as whether the food truck, cart, etc. would be able to remain in place for the duration of the F Street closure. Only smaller equipment that can be moved by hand will be allowed to be removed on a regular basis. Generators will not be allowed. Power must be sourced from the adjacent business, and power cords must have appropriate ADA compliant coverings. All food vendors must have required Health Department permits.

These measures are subject to change at the sole discretion of the City of Salida and may be terminated at any time.