

BUSINESS USE OF RIGHT-OF-WAY PERMIT PROGRAM & APPLICATION

To All Applicants:

This program to permit business use of right-of-way (ROW) has been established in response to the COVID-19 crisis. This program provides the opportunity for restaurants and retail businesses to use the public parking spaces adjacent to structures in which they are located for the purpose of providing outdoor seating, queuing or shopping areas. Such use shall be in conformance with this program and all applicable provisions of the City of Roseburg Municipal Code. An approved permit from the Public Works Department is required prior to business use of parking spaces located in the City right-of-way. This program is intended to apply to City-managed on-street parking in the right-of-way. This program is not intended to apply to State Highways. Permits under this program are valid from the date of issuance until October 30, 2020. Additional forms and information regarding this program may be accessed by calling the Public Works Department at (541) 492-6730.

Section 1. Overview of Requirements for Business Use of Right-of-Way

1. Locations and Use

- Restaurants and retail businesses may request to use parking spaces along the frontage of their existing business location; not including ADA spaces. The requested space(s) must be wholly or partially in front of said business (adjacent property owner consent required for spaces not wholly in front of business).
- Right-of-way used under this permit may be used for restaurant or retail use in support of the permittee's existing business.
- Permits issued under this program may not conflict with existing permits held by other parties to use the proposed section of right-of-way.

2. General Use Requirements

- The right-of-way and all things placed thereon shall at all times be maintained in a clean, safe, and orderly condition. Table umbrellas may be used and shall be placed and adequately weighted in compliance with all applicable local rules and to ensure that they remain safely in place. Tents and canopies are not permitted to be used in the right-of-way.
- Permittee is responsible for delineating the perimeter of the permitted section of right-of-way used for business use with a barricade that is at least three (3) feet tall. The barricade may be made of wood, metal, planter pots, rope, or other similar materials. All access into the space shall be taken from the sidewalk and not the travel lane. The barricade shall be placed at the edge of the permitted area and shall not project into or otherwise inhibit an adjoining travel lane.
- Barricades may be left outside overnight.
- Fixtures and furniture reviewed during the application process may be left outside overnight. The City will not be responsible for losses resulting from theft or damage. If furniture is left outside overnight it shall be secured to ensure it will not blow or fall into the travel lane.
- This permit does not authorize the placement of furniture or fixtures on the public sidewalk. Additionally, the business operations servicing the outdoor business shall not queue personnel or stage materials within the sidewalk area (Roseburg Municipal Code section 12.04.050 currently allows for outdoor seating for up to 12 people for property located in the Central Business District. This seating can occur along the sidewalk as long as a minimum of 5 feet clear distance free of all obstructions is maintained, in order to allow adequate pedestrian movement).
- ADA access to existing businesses and sidewalk areas shall be maintained and shall not be impacted by use of the right-of-way under this program.
- Trash containers must be provided in the outdoor business area and shall be emptied at the end of each day.
- No signs shall be attached to any furniture or any other structure related to the operation of the restaurant or retail use except as required by these or other use regulations.
- Sandwich board signs shall be located outside of required sidewalk access areas; see RMC 12.08.020 for additional information.
- Permittee is responsible for ensuring that the public right-of-way (ROW) is returned to its original condition prior to the permitted activity. The Applicant shall not chalk, paint, embed or affix structures or objects into the ROW, or otherwise mark the surface of bike paths, streets or sidewalk.
- There must be a six (6) foot wide unobstructed pathway from the driving lane to all fire hydrants and Fire Department Connections for fire sprinklers or standpipes on buildings.
- The permittee shall comply with all requirements listed in the signed agreement prepared by the City of Roseburg; a copy of which is provided in Section 3 of this packet. Permittee shall comply with any site-specific conditions required by City staff during permit review. Specific conditions may be required to ensure safety at a particular location and may vary by location.

3. Alcohol

The following requirements apply to restaurants requesting to serve alcohol in the right-of-way:

- Restaurants must hold a valid liquor license and shall provide the City a signed copy of the license issued to them by the Oregon Liquor Control Commission (OLCC).
- Permittee shall comply with all applicable OLCC requirements. Only alcohol sold by the business may be consumed within the area subject to this permit.
- Storage of containers commonly used for dispensing alcoholic beverages to customers including but not limited to bottles, pitchers, and carafes must be kept inside the business unless an employee is stationed in the outside area at all times. No taps, kegs, coolers or other alcoholic beverage storage devices are allowed outside on the sidewalk or right-of-way.
- The permit area is required to be supervised by employees of the license business, as required by the Oregon Liquor Control Commission liquor license.
- All service and consumption of alcoholic beverages in the permit area will discontinue by the time required under the State of Oregon's phased reopening, but no later than 11:00 PM on Sunday through Thursday and 1:00 AM on Saturday and Sunday.
- The permittee must also provide food service in the permit area. The permittee shall designate one access/exit point for the exterior service area and this point shall be located near a business entrance; and the permittee shall post signage at the access/exit point and enclosed area prohibiting the removal of alcoholic beverages from the licensed sidewalk café area.

4. Liability

The permittee shall sign a statement, prepared by the City, affirming that they shall hold harmless the City, its officers and employees, and shall indemnify the City, its officers and employees for any claims for damages to property or injury to persons which may occur in connection with an activity carried on under the terms of the permit.

5. Application and Notification

The business must submit a completed application form, signed by the business owner, and provide all requested information required in the application.

Prior to submitting an application, the business must notify neighboring businesses on both sides of their location that an application will be submitted to use parking spaces for business use under this program. The purpose of this notification is to inform, but not require the approval of, neighboring businesses.

6. Fees

There are no application fees under this program.

7. Agreement

Upon preliminary permit approval, the applicant must sign an agreement that specifies the requirements of the permit. A copy of the agreement is provided under Section 3. City staff will prepare the final agreement for signature by both the City and business owner.

8. Permitting Process

City staff will review all permits as quickly as possible. Review times may take longer if an application is incomplete, the location has complicating factors, or if the City receives a high volume of applications.

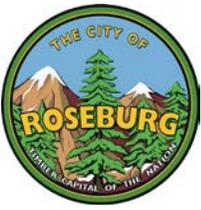
Please submit a completed application packet to the Public Works Department at pwd@cityofroseburg.org. If you have questions, please contact the Public Works Department at (541) 492-6730.

9. Program Review

This program will be reviewed after the first two weeks of operation, and periodically thereafter. The program may be changed as needed in order to ensure that it provides needed space for restaurant and retail businesses in a manner that is safe and harmonious with neighborhood uses. Unless the City notifies the permittee that this permit is cancelled, this permit will be valid for the duration of this program.

10. Complaints

Complaints concerning this program may be directed to the Community Development Department by emailing cdd@cityofroseburg.org or by calling (541) 492- 6750.



Section 2. Business Use of Right-of-Way Permit Application

Site & Applicant Information

Application is hereby made for a revocable permit to operate a business in the City of Roseburg right-of-way in accordance with provisions of this program and the City of Roseburg Municipal Code.

Business Name: _____ Phone: _____

Business Address: _____

Applicant Name (print) : _____ Email: _____

Business Owner Name (print) : _____ Email: _____

I acknowledge that if approved, the use of the right-of-way shall be subject to the program requirements listed in Section 1 of this application packet and all requirements of the Roseburg Municipal Code. If approved, a Temporary Right-of-Way Use Agreement will be prepared by the City, and must be signed prior to use of the right-of-way. The Agreement may contain site-specific use requirements intended to ensure public safety at a particular location.

I shall hold the City of Roseburg, its officers, agents, and employees free and harmless from any claims for damages to persons or property including legal fees and costs of defending any actions or suits thereon, including appeals therefrom, which may result from granting the permit.

Applicant Signature: _____ Date: _____

Business Owner Signature: _____ Date: _____

STAFF USE ONLY

City Signature: _____ Date: _____

Application Submittal Date: _____ approved denied

Application Requirements Checklist

A complete application must include all of the following:

Completed Application Form

Scaled site plan Plans shall include the following information:

- Parking spaces proposed for restaurant or retail use
- ADA clearances into and throughout business area;
- Location and type of barricades proposed for delineating the business location
- Location and type of furniture and fixtures that would be placed in the right-of-way

Will alcohol be served?

Yes **No**

If yes, Current copy of Oregon Liquor Control Commission (OLCC) License is required.

Neighboring businesses on both sides of the business have been notified of this application.

Name of Neighboring Business 1: _____

Date notified: _____

Name of Neighboring Business 2: _____

Date notified: _____

Please submit a completed application packet to the Public Works Department at pwd@cityofroseburg.org. If you have questions, please contact the Public Works Department at (541) 492-6730.

Section 3. Temporary Right-of-Way Use Permit Agreement

City staff will prepare a final copy of this agreement, with blank fields populated if a permit can be issued. This agreement does not need to be signed at the time of permit application.

THIS AGREEMENT is entered into this _____ of _____, 2020, by and between the CITY OF ROSEBURG, an Oregon municipal corporation, hereinafter referred to as "City", and (_____ **business name**) hereinafter referred to as "Permittee", the promises of each being given in consideration of the promises of the other.

WHEREAS, the City of Roseburg has declared a State of Emergency due to the COVID-19 Crisis. This emergency has created a demand by some businesses to use public right-of-way in order to safely serve their customers, and

WHEREAS, Permittee desires to occupy the public right-of-way for the purpose of operating a restaurant or retail business.

NOW, THEREFORE, the parties agree as follows:

1. Term. This temporary permit shall be in effect from the date of last signature through October 31, 2020.
2. Right-of-Way Use. City hereby grants to Permittee a non-assignable right to occupy the following described right-of-way, subject to all of the terms and conditions of this Permit and all applicable requirements of the Roseburg Municipal Code, as currently enacted or as subsequently modified, for the purpose of operating a restaurant or retail business at the following location: (_____ **business address**) and manner as shown on the attached site plan, Exhibit A, which by this reference is incorporated into and made a part of this permit and reference in this document as "permit area."
3. Use Regulations.
 - a. The permit is specifically limited to the area described in paragraph 2 above.
 - b. The right-of-way and all things placed thereon shall at all times be maintained in a clean, safe, and orderly condition. Table umbrellas may be used and shall be placed and adequately weighted in compliance with all applicable local rules and to ensure that they remain safely in place. Tents and canopies are not permitted to be used in the right-of-way. Only those things authorized by the permit and shown on the site plan may be stored in the public right-of-way when the restaurant or retail use is not in operation. The operation of a restaurant or retail business requires that trash containers be provided on site.
 - c. No signs shall be attached to any furniture or any other structure related to the operation of the restaurant or retail use except as required by these or other use regulations.

- d. If the Permittee serves alcohol in the permit area, then the following are requirements of this permit:
 - i. Permittee shall hold a valid Oregon Liquor Control Commission (OLCC) liquor license and comply with all applicable OLCC requirements if alcohol is served to restaurant patrons. Only alcohol sold by the business may be consumed within the area subject to this permit.
 - ii. Storage of containers commonly used for dispensing alcoholic beverages to customers including but not limited to bottles, pitchers, and carafes must be kept inside the business unless an employee is stationed in the outside area at all times. No taps, kegs, coolers or other alcoholic beverage storage devices are allowed outside on the sidewalk or right-of-way.
 - iii. The permit area is required to be supervised by employees of the license business, as required by the Oregon Liquor Control Commission liquor license.
 - iv. All service and consumption of alcoholic beverages in the restaurant area will discontinue by the time required under the State of Oregon's phased reopening, but no later than 11:00 PM on Sunday through Thursday and 1:00 AM on Saturday and Sunday.
 - v. The Permittee must also provide food service in the permit area. The Permittee shall designate one access/exit point for the exterior service area and this point shall be located near a business entrance; and the Permittee shall post signage at the access/exit point and enclosed area prohibiting the removal of alcoholic beverages from the licensed area.
 - e. Permittee shall not use private parking spaces.
 - f. If parking is to be restricted, "No Parking" signs need to be placed 48 hours in advance of the event.
 - g. Permittee shall not block access to existing public utilities (manholes, fire hydrants, mail boxes, etc.).
 - h. Permittee shall protect the existing structures and other improvements. Damage to any of existing structures shall be repaired and replaced by the Applicant at the Applicant's expense.
 - i. Permittee is responsible for insuring that the public right-of-way (ROW) is returned to its condition prior to the permitted activity. The Applicant shall not chalk, paint, embed or affix structures or objects into the ROW, or otherwise mark the surface of bike paths, streets or sidewalk.
4. Applicable Laws. Permittee agrees to comply with all applicable local, state and federal laws, rules and regulations related to the operation of their restaurant or retail use.
 5. Assignability. This permit is for the exclusive benefit of the parties hereto. It shall not be assigned, transferred, or pledged by either party without the prior, written consent of the other party.

6. Temporary Suspension by City. City shall have the right to temporarily suspend this permit if the public interest requires use of the right-of-way for a public event, construction, repair or any other purpose.

7. Hold Harmless. Permittee shall indemnify, protect, defend, and hold the City, its officers, agents and employees, harmless against any claim for injury or damage and all loss, liability, cost, or expense, including court costs and attorney's fees, growing out of or resulting directly or indirectly from a right-of-way use permit issued by the City of Roseburg during the term of this agreement except that resulting solely from the negligence of the City.

8. Non-discrimination. The parties agree not to discriminate on the basis of race, religion, color, sex, marital status, family status, national origin, age, mental or physical disability, sexual orientation or source of income in the performance of this agreement.

9. Termination.
 - a. The City may terminate or modify all restaurant or retail use of the public right-of-way authorized under this permit at any time at its sole discretion. Permittee shall not obtain any property right in the continued private commercial use of the public sidewalk.
 - b. The City may deny, revoke, or suspend the permit upon finding that any provision of this agreement or condition of approval will be or has been violated.

IN WITNESS WHEREOF, the City and Permittee have herewith executed their signatures.

CITY OF ROSEBURG, OREGON

PERMITTEE

By: _____
 City Representative

By: _____
 Business Owner

Date: _____

Date: _____