



City of Bothell

DEVELOPMENT SERVICES

BUILDING • COMMUNITY RISK REDUCTION • ENGINEERING • PLANNING • PERMIT SERVICES • TRANSPORTATION

PUBLIC AREA USE PERMIT

Submit your application online at www.MyBuildingPermit.com.

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A Public Area Use Permit is required for Sidewalk cafes, merchant displays, or any other private use of public property not exempted by BMC 17.20.020.

PROPERTY INFORMATION

Project/Business/Tenant Name (if applicable): _____

Site Address: _____ Suite No: _____

Parcel No: _____

Property Owner: _____

Mailing Address: _____ City _____ State _____ Zip _____

Phone: (____) _____ E-Mail: _____

PRIMARY CONTACT INFORMATION:

This person is designated by the applicant to receive all communications, correspondence, determinations, and notices required by applicable development regulations.

Contact Person: _____ Company Name: _____

Relationship to the Applicant _____

Mailing address _____ City _____ State _____ Zip _____

Phone (____) _____ E-Mail: _____

APPLICANT

Applicant: _____

Mailing address _____ City _____ State _____ Zip _____

Phone (____) _____ E-Mail: _____

Indemnity

Applicant understands and by his signature to this application agrees to indemnify, defend and hold harmless the City of Bothell, its agents and employees from and against any and all claims, losses or liability, including attorney's fees arising from injury or death to persons or damage to property occasioned by any act, omission or failure of the applicant, his officers, agents and employees, in performing the work authorized by this permit. This paragraph shall not apply to any damage resulting from the sole negligence of the City, its agents and employees. To the extent any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of the City, its agents or employees, this obligation to indemnify, defend and hold harmless is valid and enforceable only to the extent of the negligence of the applicant, his officers, agents and employees.

Inspection

I hereby authorize City representative(s) to inspect my property Monday through Friday, between the hours of 8 a.m. and 5 p.m. during this permit application process for purposes of verifying site conditions.

Owner or Authorized Representative

Date

Outdoor Dining & Retail (where permitted per 12.06.060 or 12.64)

Plan and Application Requirements:

Applicant		Staff
<input type="checkbox"/>	General vicinity of proposed site including nearest intersections and use location	<input type="checkbox"/>
<input type="checkbox"/>	5 copies - site plan (to scale) including: <ul style="list-style-type: none"> • Dimensions of dining area location • Sidewalk or other area to be used • Indicate proposed type of seating • Indicate proposed markings or barricade to be used • Any signs proposed to be used 	<input type="checkbox"/>
<input type="checkbox"/>	5 copies - Full and complete description of the use proposed by the applicant, and the duration of such proposed use including days and hours of operation.	<input type="checkbox"/>
<input type="checkbox"/>	If alcohol will be served within flex use zone, then plans must show how alcohol use area will be designated with either pavement markers or railings. If alcohol will not be served in the flex use zone then the plans must clearly state no alcohol will be served.	<input type="checkbox"/>
<input type="checkbox"/>	A Certificate of Insurance naming the City of Bothell as additional insured with a CG2012 attachment must be received prior to issuance of permit (see certificate of insurance requirements handout).	<input type="checkbox"/>
	Outdoor Dining Permit Fees: <ul style="list-style-type: none"> • Outdoor dining and/or general usage permit fee: \$125 • If railing permit then add a review fee of \$150 • Outdoor dining - flexible zone use: on/before March 15th \$150, after March 15th \$450. • Monthly use charge per square foot (gross square footage in right of way): \$0.09 • Add 5% Technology Fee • Annual Renewal Fee: \$100 	

- **See Outdoor Dining & Retail packet for more detailed information and instructions.**
- Outdoor seating, tables, table umbrellas and other appurtenances of outdoor dining may be placed on public sidewalks, provided a minimum sidewalk width of five feet measured to the street side of the sidewalk shall be kept clear for pedestrians.
- The proposed use shall not protrude into or over any portion of a public place open to vehicle or pedestrian travel in such a manner as to create a likelihood of endangering the use of such place by vehicles or pedestrian travel. In addition, in the event the requested permit involves encroachment or partial obstruction of a sidewalk or other walkway open to the public, a minimum of five feet of unobstructed sidewalk or other walkway shall be maintained at all times;
- Ongoing uses of public areas for uses including but not limited to outdoor dining and merchant displays may be issued longer term permits, up to one year, which shall be renewable annually or for multiple years;
- The applicant shall agree to authorize such inspections as are reasonably necessary in the enforcement of this chapter.
- As described in the Outdoor Dining & Retail information packet, Outdoor Dining & Retail Permits are an annual permit expiring December 31st each year. Flex zone permits are limited to May 1st through September 30th.

OUTDOOR DINING & RETAIL (SIDEWALK & FLEX ZONE) PUBLIC AREA USE PERMITS



OVERVIEW

The City of Bothell encourages outdoor cafes and retail uses to increase public use and enjoyment. With proper design and management, outdoor cafes and retail establishments can be a great way to encourage walking, add vitality to the street, and promote local economic development. Approval of an application for outdoor dining use shall be granted to the applicant only, and shall not be transferable.

The intent of the flex zone (on the Main Street block between 101st and 102nd Avenues) is to provide for parking. Alternatively, the flex zone, along with the adjacent sidewalk area, may be used for outdoor dining uses, subject to City approval.

Allocation of the flex zone for outdoor dining use shall be based on frontage between the extended property lines of the building in which the associated fronting ground floor storefront restaurant use is an occupant. Where more than one-half of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use. Where one-half or less of the total square footage of a parking space is located between the extended property lines, an application for allocation of that parking space may be made by the owner or tenant of such use, but shall require the written agreement of the affected underlying property owner, at no compensation, and shall be conditionally allocated until such time the affected adjacent ground floor storefront restaurant use requests and is approved for allocation of the flex zone fronting their use. In such circumstance, the extended property line will become the dividing mechanism between the two allocated uses.

DEFINITION

An Outdoor Dining and Retail Public Area Use Permit allows a food or retail service establishment to set up tables and chairs on the sidewalk immediately next to the business. With an Outdoor Dining and Retail Permit, a café or retail establishment can provide table service and serve alcohol if the establishment has an active liquor license for that area. Both umbrellas and fencing may be used in the design.

REQUIRED INFORMATION/ DOCUMENTATION

- Outdoor Dining Public Area Use Right-of-way Permit Application, available at <http://www.bothellwa.gov/393/Applications-Forms>
- Letter of Authorization
- Site Plan
- Certificate of Liability Insurance, plus an endorsement
- Pertinent application review fees. Please see City Fee Schedule for current rate.
- Base permit fee is due at intake, plus the current per-square-foot fee.
- Platforms and structures in the right-of-way are discouraged, and are only permitted where topography (8 percent grade or more) is a concern. Platforms require additional application review and fees (hourly charges).

OUTDOOR DINING PERMIT APPLICATION PROCESS

Applications for an Outdoor Dining Permit may be submitted either by the property owner or the operator of the food service establishment.



Application Steps/Content:

1. Review the Outdoor Dining Standards. Develop a site plan for your proposed outdoor dining. All standards must be met for an application to be approved.
2. Collect the Required Documentation. See the list above.
3. Visit City of Bothell. Applicants may contact Permit Services to obtain information and permit application materials. Public Works engineering will help you determine if sidewalk width, zoning,

and existing obstructions in front of your food service establishment will allow for outdoor dining. The Permit Center is located at:

City of Bothell City Hall
18415 101st Ave. NE
Bothell, WA 98011

We can be reached by phone at (425) 806-6400 during normal business hours. The permit center is open Monday – Friday from 9am to 4pm, and Thursday 9am - noon.

4. Application Information.

The applicant shall complete the Public Area Use Right-of-Way permit application. The applicant shall provide five (5) copies of a dimensional site plan (see example attached), unless the submittal is electronic. The site plan must show the following:

- a. Address
- b. The underlying right-of-way (and parking spaces if requesting to use the flex zone) and the location of adjacent City street trees and furnishings, including, but not limited to planters, light poles, benches, trash containers, kiosks, etc.
- c. An outline of the area proposed for outdoor dining use and the location of any existing and adjacent outdoor dining uses.
- d. The proposed layout of all use furnishings, including, but not limited to, tables, chairs, umbrellas, heaters, planters, fencing, signage, etc.
- e. The proposed electrical connections to serve the use – if electrical service is requested (electrical service is permitted for lighting in the flex zones only).
- f. The proposed circulation to and from the outdoor dining use and the associated business, general pedestrian circulation, and building ingress/egress.
- g. Location of all proposed signage. Permit reviewers will evaluate if a sign permit is required.
- h. Location of all buildings and structures adjacent to the outdoor dining use, including the building proposing the use.
- i. Location, type and height of any fencing surrounding the outdoor dining use.

Supplementary information to provide with the Application (as necessary) includes:

1. A letter of agreement signed by the underlying property owner and adjacent business

owner(s) if the outdoor dining use is requesting to expand in front of an adjacent business. The applicant must demonstrate that the proposed use will not block the display windows or signage of the adjacent business(s).

2. Specifications for all proposed signage.

3. Evidence of Comprehensive Liability Insurance, and a signed Hold Harmless and Indemnification statement (that indemnifies and holds harmless the City of Bothell, its officials, employees, agents and volunteers, and the underlying property owner(s)).

4. A copy of the applicant's approved City of Bothell business license.

Submit Complete Application

Applications can be submitted in person or online.

City of Bothell City Hall
18415 101st Ave.
Bothell, WA 98011

Online: www.MyBuildingPermit.com

6. Application Review and Site Visit

7. City of Bothell staff will review the application and may contact you to request or correct any information. Staff will visit the site to ensure the layout meets standards.

Permit Decision

After the staff review is complete, City of Bothell will either:

- a. Approve the application.
- b. Approve the application with modifications.
- c. Deny the application.

The outdoor dining or retail establishment cannot be installed until all applicable fees have been collected and an approved Public Area Use Permit has been issued. The Permit must be stored on site and available upon request.

Request for Review or Reconsideration

Anyone can request a review or reconsideration of a permit decision. This request should be made in writing to the City Manager within 3 days of the permit decision. See BMC 17.20.060 for details.

The City Manager's decision on review or reconsideration will be final.

PROOF OF INSURANCE

The applicant must provide a completed CG2012 form and proof of at least \$1 million dollars in liability insurance while the permit is in effect, including potential claims for bodily injury, death, or disability and property damage which could occur at or be related to outdoor dining and retail purposes. The insurance must name the City of Bothell as an additional insured.

FEES

The one-time application review fee is due with the application submission (see current fee schedule for cost).

Annual permit fees are due once an application has been approved and must be paid before a permit is issued. The Annual Use Fee covers a one-year period and is not pro-rated. The City of Bothell will automatically mail the food or retail service establishment an invoice to renew the Outdoor Dining and Retail Permit annually if the permit is in good standing.

PERMIT REVOCATION / EXPIRATION

All Public Use permits are wholly of a temporary nature and can be revoked by City of Bothell given a 30-day notice, per Bothell Municipal Code (BMC) 17.20.

FREQUENTLY ASKED QUESTIONS

- **What if I already have an outdoor dining and retail public area use permit?** If conditions haven't changed, existing permitted outdoor dining permit can be renewed annually. If site conditions have changed, modifications to the outdoor dining and retail permit are necessary to stay in compliance.
- **How do I report an issue with noise or an outdoor establishment that is encroaching into the sidewalk?** The City handles issues of sidewalk encroachment and noise. We can be reached at (425) 806-6400 from 8 AM to 5 PM during the work week. The City has the right to require immediate changes if an outdoor dining establishment has expanded beyond its permitted area, and may revoke an approved permit due to any ongoing problems.

OUTDOOR DINING & RETAIL STANDARDS

General Standards

Outdoor dining and retail uses may request to use the sidewalk area, flex zone, or both. Outdoor dining uses within the flex zone may use the entire area between the edge of sidewalk and the bollards that mark the edge of roadway.

In the flex zone, outdoor dining use operators may propose to use a parking space located completely outside of their extended property lines and in front of an adjacent business with the written agreement of the underlying property owner and adjacent business owner, at no compensation. In the sidewalk area, outdoor dining uses may propose to extend in front of an adjacent business outside of their extended property lines with the written agreement of the underlying property owner and adjacent business owner, at no compensation.

In no case, shall such extension be permitted to block the display windows or signage of the adjacent business. In the flex zone, only one additional parking space may be requested from each side of an applicant's extended property lines. The maximum number of parking spaces that may be converted to outdoor dining is three per restaurant use.

Outdoor dining and retail use may be located directly adjacent to another outdoor dining use, where the extended property line will become the dividing mechanism between the two allocated uses.

Clear Path of Pedestrian Travel

All outdoor dining use and retail uses shall maintain ingress/egress and pedestrian circulation pursuant to International Building Code and International Fire Code; and shall comply with the following minimum requirements (the City reserves the right to require larger clearance, ingress/egress, and pedestrian corridors depending upon the circumstances pertaining to the use area):

Maintain a minimum five foot wide access in a direct and straight path to the building entrance clear and unimpeded for ingress and egress.

Maintain a minimum five foot wide clear path off travel/ sidewalk corridor for general pedestrian circulation adjacent to the use.

For short distances, clear Path widths of less than

5' (but in no case less than 4' wide) may be approved subject to City review.

Maintain a minimum 15-foot radius from street corner intersections, measured from the back of curb.

Within the sidewalk and flex zone areas, the City may require a minimum five-foot clearance adjacent to City street trees and furnishings, to allow for use of trash containers and benches by the general public, and to allow access for maintenance of planters, street lights and other street furnishings by City maintenance crews. City staff will review each applicant's site plan to determine if additional access or clearance is required.

The clear path of travel should be straight and not involve sharp or jagged turns that would impair pedestrian circulation. Please see the Standard Detail, which outlines the Pedestrian Corridor requirements. See Figure 3 of this handout.

Permanent changes to the flex zone or sidewalk area shall not be permitted. No decking or stages are permitted. Any flex zone, sidewalk, or City improvements, furnishings, and utilities damaged or destroyed by the outdoor dining use shall be replaced to City standards with the cost borne by the permittee.

Furnishings and decorations shall not encroach beyond the permitted use area or overhang pedestrian or vehicular circulation paths.

All outdoor dining and retail use areas shall be maintained in an attractive, clean (free from spills, litter and other debris) and safe manner.

Compliance with ADA

Places (like sidewalk cafes) that offer accommodations to the public are required to comply with Title III of the ADA. These accommodations must provide an equal opportunity for individuals with disabilities to enjoy the goods and services offered.

Programs, activities, and services provided by state or local government entities are covered by Title II.

Setbacks

Setbacks are required from the following elements. These elements must be clearly identified on the required site plan in the permit

application:

- 5' from alleys and from bus, handicapped parking, and commercial loading zones. 5' from traffic signs, utility poles, fire hydrants, bike racks, and other street fixtures.
- 3' from the front of the curb whenever a sidewalk café is located adjacent to curb.
- 5' from curb ramps, or the beginning of the corner curb radius (see Figure 1) where curb ramps do not exist.

Building Exits

A clear path of travel must be maintained for any building exit, and must be at least 4' wide or of equal width to the exit door – whichever is wider. This path of travel must be free of obstructions, including gates of any type, and connect the building exit to the sidewalk.

Seating Platforms

Seating platforms and other structures are discouraged. Only proposed sidewalk café sites that require leveling due to site topography will be considered for an additional building permit for the platform. Additional fees (hourly and permit fees) and review by the City of Bothell are required for all proposed seating platforms.

Platforms must also be compliant with the latest ADA Standards for Accessible Design.

Heating Elements and Overhead Weather Protection (Umbrellas)

Heating elements and free-standing umbrellas are allowed within the footprint of the permitted café, but may not encroach on the clear path of travel. Heating elements must be of a type permitted by the City of Bothell Fire Marshall and must be temporary in nature and easy to remove.

An umbrella is not considered to encroach on the clear path of travel if:

1. The opened portion is more than 8' above sidewalk grade, and
2. No part of the umbrella is within 25' of a stop sign.

Amplified Sound

Installation and use of speakers and other amplified sound equipment is not allowed.

Liquor Control

Outdoor dining establishments must be in compliance with all Washington State Liquor and Cannabis Control Board laws; subject to enforcement.

Hours of Operation

Sidewalk cafés may operate during the food-service establishment's general business hours. Tables and chairs can remain in the sidewalk café outside of business hours.

Prohibited Uses

The outdoor dining or retail establishment may not be used for any purpose other than food and retail service associated with the adjoining business. Outdoor storage or other uses are strictly prohibited.

Figure 2: Required Clear Path of Travel and Setback from Obstructions for Sidewalk Cafes

Other 5' setbacks:

- Traffic signs
- Utility poles
- Bike racks
- Alleys
- Disabled parking zones

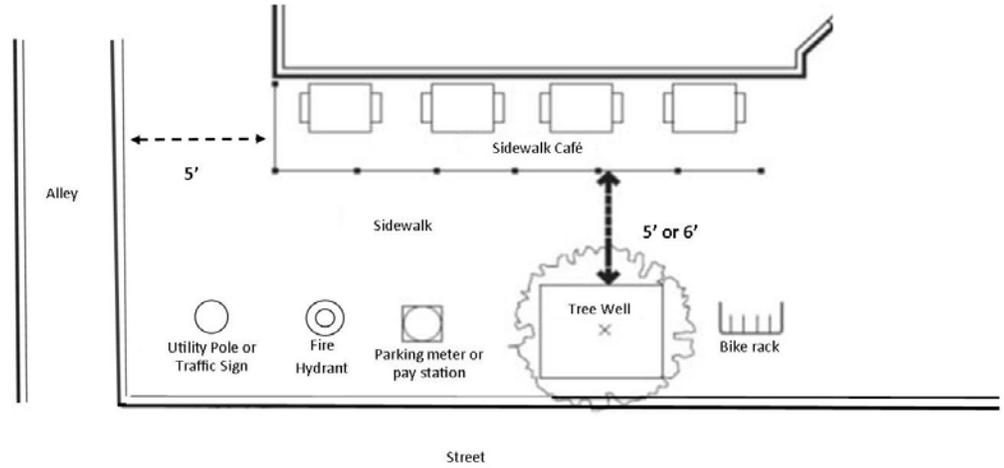
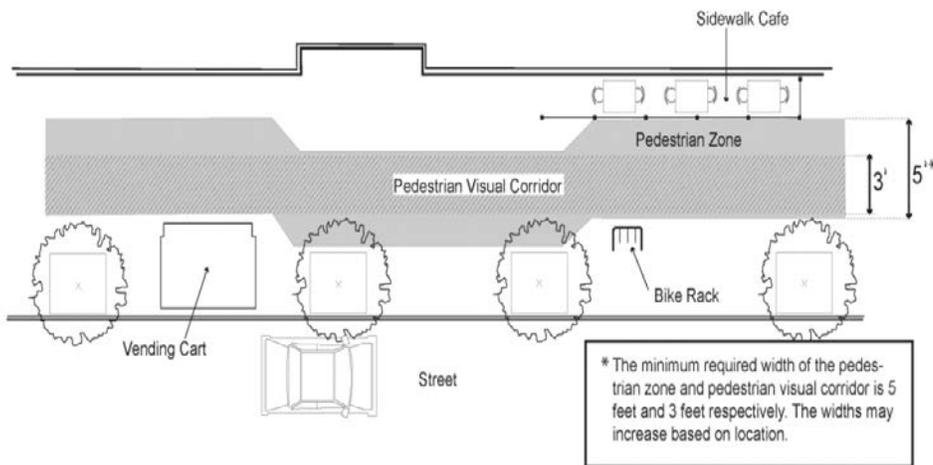


Figure 3: Pedestrian Zone/Pedestrian Visual Corridor



* The minimum required width of the pedestrian zone and pedestrian visual corridor is 5 feet and 3 feet respectively. The widths may increase based on location.