

Temporary Right of Way Use Permit Special Conditions
For _____ Outdoor Seating and Fencing
ROW21-####

Temporary COVID-19 Phased Re-opening

1. Applicant's failure to comply with any provisions/conditions of this permit shall be terms for immediate termination.
2. Applicant shall maintain current insurance throughout the life of the permit and provide the City with proof that they are insured and name the City as an additional insured. Insurance certificates and additional insured endorsements shall meet the requirements outlined in the Right-of-Way Use Permit Requests Informational Packet.

Insurance Certificates and additional insured endorsements shall be submitted to the City of Auburn, ROW Specialist, Public Works - Transportation, 25 West Main Street, Auburn, WA 98001

3. Applicant shall provide a signed Hold Harmless Agreement before this permit shall be issued.
4. Applicant shall comply with all City Codes.
5. Applicant shall provide immediate access to any City facilities such as manholes, street lighting, storm drains, water access, electrical, meters, etc. that are located in the area of the applicant's use. These facilities shall remain uncovered and accessible at all times.
6. Outdoor seating in the right-of-way shall only be allowed adjacent to streets where the speed limit is no more than 25 mph and only immediately adjacent to the business that the outdoor seating is for.
7. Applicant shall keep the permitted area of use free of litter and drink or food waste.
8. This permit will terminate on the date that Phase 4 of the Governors Safe Start Phased re-opening takes effect in Auburn for the county in which the business is located.
 - a. Upon termination of this permit, the Applicant shall remove the fencing and seating from the City right-of-way, and restore the right-of-way to its original or better condition prior to the permitted use.
 - b. If the Applicant desires to continue use of the Right-of-Way beyond the timeframe specified in item 8) above, the Applicant shall submit for a new Right-of-Way Use Permit Application per the standard process and adopted fee schedule. Continued use of the right-of-way, if

approved, would likely require permanent improvements, other considerations, and conditions not made with this temporary permit.

9. The City reserves the right to adjust the terms and conditions or revoke this Right-of-Way Use Permit based on the following considerations:
 - a. Public complaints involving perceived issues on the impact of the permitted use on the public use of the rights-of-way.
 - b. Any emerging issue or change in use of the ROW that may impact the public interest, as follows:
 - i. The remaining capacity of the rights-of-way to accommodate other public uses.
 - ii. The effect, if any, on public health, and safety.
10. Applicant shall obtain required licensing and permitting from the Washington State Liquor and Cannabis Board for outside service area for the duration of the permit.
 - a. Upon request from the City the Applicant shall provide a copy of the Final Approval and Inspection for the outside service area from the WSLCB.
11. Outdoor seating area may not be used for any use other than food and beverage service associated with the adjoining business. Outdoor storage or other uses are strictly prohibited.
12. The outdoor seating area must be accessible and detectable as required by American with Disabilities Act (ADA) guidelines.
 - a. All seating and tables must be movable in order to accommodate wheelchair access.
13. Where the Right-of-Way Use Permit includes areas of public sidewalk, the Applicant shall maintain an ADA compliant pedestrian pathway for the general traveling public with a minimum width of 60 inches.
14. Fencing or acceptable barrier around the entire outdoor seating area is required. A proposal for the fencing or acceptable barrier design shall be submitted for administrative approval prior to installation. Fencing or acceptable barrier shall meet the following requirements;
 - a. Must be 42 inches in height or must be the height required by the State Liquor Control Board.
 - b. Must be generally transparent and cannot be solid for the full height.
 - c. Must be removable and permanent installation into the City sidewalk is not allowed.
 - d. Any Gate and fencing (including hardware, wheelchair access, turnaround, etc.) shall be located to meet ADA accessibility requirements in accordance with IC A117.1-2009.

- e. Applicant shall ensure that paths to exterior doorways and gates remain unobstructed at all times and maintain minimum pathway width of 44" or width of doorways or gates, whichever is greater.
- 15. Any use of on-street parking spaces for seating or pedestrian use shall require a suitable physical barrier between vehicular traffic on the roadway and pedestrians or patrons seated in the parking space. All traffic barriers shall be in conformance with MUTCD requirements. In addition, there shall be reflective markings on the traffic side of the physical barriers.
- 16. Applicant shall conform to any and all requirements from the Building Department for commercial building improvements.
- 17. Applicant shall obtain a Building Permit for any new or altered building entrances or exits including those in the fencing surrounding the outdoor seating area.
- 18. Applicant shall obtain a permit from L&I for any lighting proposed in the outdoor seating area. Any overhead lighting shall have a minimum height of 10 feet except where installed over vehicular travel ways such as alleys, driveways, and streets where the minimum height will be 16 ½ feet.
 - a. If lighting is to attach to adjacent property building, applicant shall obtain permission from adjacent property owner in addition to any required permits.
 - b. Any overhead lighting shall not interfere with traffic signals or street lighting.
- 19. Applicant is to ensure the permitted area will be accessible for emergency responders.
- 20. Applicant will provide a 24 hour contact phone number.
- 21. The applicant will be financially responsible for the removal of any temporary or permanent objects that are placed by the applicant in the right-of-way. This could include but not be limited to objects such as fencing, tables and chairs, signs, planters, barriers, and lights, etc.
- 22. Any damage to city property caused by the actions covered under this permit shall be restored by the applicant upon completion of their use of the area or immediately upon notification from the City to do so.
- 23. All restorations shall be in accordance with City standards.
- 24. The Applicant shall, at its own expense, return the permitted area to the condition it was in on the date of the permit approval or better, when the permit expires or when the permit is otherwise terminated or cancelled.