Temporary Right-of-Way Use Permits
A guide to food trucks, mobile food vendors, parklets, sidewalk cafes, street vendors and other commercial uses of the public right-of-way.
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**Additional Links and Attachments:**

- [Public Works Permit Application](#)  
- [Fee Schedule](#)  
- [Signature Approval/Notification Form](#)  
- [Insurance Requirements](#)  
- [Indemnification and Insurance Form](#)  
- [Guidelines for Covered Cafes](#)
Introduction

Activity on or adjacent to the sidewalk is an essential component to a healthy retail district. One way to encourage this activity is to allow strategic use of the public right-of-way for commercial uses, such as sidewalk vendors, sidewalk cafes, food trucks and parklets.

These uses bring vibrancy to Bellingham's streets, increasing enjoyment and enhancing character and quality of life. They also provide economic opportunity for entrepreneurs testing a concept, preparing for a brick and mortar investment, or for established businesses wishing to expand their operations.

When these activities occur in the right-of-way, locating them appropriately and regulating the size, frequency and operating hours helps maintain sidewalks and streets as safe and accessible places for all sidewalk users. These restrictions also protect existing businesses whose owners have made an investment in a storefront location.

This guide provides the steps and requirements necessary for approval to use the public right-of-way. This is based on three key factors:

- Obtaining permission from the abutting business or property owner(s);
- Designing the space to keep the path clear for pedestrians and maintain safe and accessible passage for all users; and
- Following all licensing, operating, and safety requirements.

Additional information is available at the City’s permit center (www.cob.org/permits):

210 Lottie Street
Bellingham, WA 98225

Phone: (360) 778-8300 TTY: (360) 778-8382
Email: permits@cob.org
Definitions

**Area of operation:** The part of the sidewalk or street included in the right-of-way use permit.

**Curb line:** The raised area creating a boundary between a street and sidewalk.

**Food truck/mobile food vendor:** A truck or trailer licensed as a vehicle and equipped with facilities for cooking and/or selling food.

**Parklet:** A platform constructed in a former curbside parking space that includes seating and other amenities.

**Right-of-way (ROW):** Land acquired or dedicated for public roads, streets, alleys and/or sidewalks, regardless of whether or not these facilities have been constructed.

**Sidewalk café:** Tables, seating or other amenities such as umbrellas, landscaping or fencing adjacent to a business and located in the public right-of-way, maintained by the business owner for the use of their customers.

**Sidewalk vendor:** A person, not associated with an adjacent business, engaged in selling, offering for sale or distributing food or other products on a public sidewalk.

Licensing

The City of Bellingham requires all business to be licensed with the city if they are located within city limits OR conducting business within the city limits. Other agencies may also require licensing or additional reviews. **It is the applicant’s responsibility to make sure approval from outside agencies is granted prior to operating in the public right-of-way.** These agencies may include, but not be limited to:

- **City of Bellingham Business Registration:** [http://bls.dor.wa.gov/cities/bellingham.aspx](http://bls.dor.wa.gov/cities/bellingham.aspx)
- **Whatcom County Health Department:** [http://www.co.whatcom.wa.us/867/Food-Safety](http://www.co.whatcom.wa.us/867/Food-Safety)
- **Washington State Liquor and Cannabis Board:** [https://lcb.wa.gov/](https://lcb.wa.gov/)
General Requirements

The following general requirements apply to all commercial uses of the right-of-way described in this document. Uses of the right-of-way associated with Special Events, as defined in Bellingham Municipal Code 13.13, are regulated under the rules of that chapter and not required to obtain an additional right-of-way use permit.

Accessibility
All uses of the right-of-way must maintain a minimum five (5) foot unobstructed clear walking path on the sidewalk between the area of operation and the curb. See Figure 2 below. The clear path of travel shall be generally straight with no abrupt turns that impair pedestrian circulation. Obstructions include street furniture, such as signposts, lampposts, etc. street trees or grates, meter posts, and any other protuberance into the area.

Annual Renewal
Permits are valid for one year and may be renewed based on proof of compliance with all conditions of issuance and payment of the renewal fee. Failure to renew the permit may result in civil penalties.

Application Submittal
The following information must be submitted in order to obtain a right-of-way use permit:

1) Public Works permit application – Complete all required fields.
2) Site plan - Show the proposed area of operation and additional required information. See Site Plan, below.
3) Signature approval/notification form – All uses require approval and/or notification of the abutting business (or property owner, if no business is present). Some uses may require approvals or notifications beyond this area.
4) **Indemnification and insurance form** – Applicants must sign this form agreeing to hold the City harmless for any claims or liabilities related to the permitted activity and to obtain and maintain general liability insurance for the use.

**Area of Operation**
The area of operation is the specific location where the use has been authorized within the right-of-way. Permits are issued for a single location and are not transferrable to other locations or operators.

In reviewing the proposed area of operation, the City will consider:
- Width of the sidewalk. A minimum of 5-feet of pedestrian clearance must be maintained. The presence of appurtenances within the right-of-way (parking meters, vehicle exiting, etc) may require additional clearance.
- A minimum of 8-foot high clearance above the sidewalk is required for awnings or other protuberances.
- Proximity to existing street furniture and buildings.
- Configuration of existing drive lanes and on-street parking stalls.
- Presence of sign posts, light poles, parking meters, bus shelters, street furniture, public art, street trees, loading zones, and other obstructions located on the sidewalk.

These considerations will determine whether the proposed use would result in pedestrian or street congestion and whether the required clearance may be maintained. After the right-of-way use permit application is reviewed, staff will mark on the sidewalk at each corner of the approved area of operation to locate the boundaries. It is the applicant’s responsibility to ensure that all operations, furniture, and other obstructions remain within this area.

**Fees**
A permit fee will be charged upon issuance of the permit. Fees are adopted by City Council resolution and based on the area occupied and duration of the permit. See the attached [fee schedule] for additional detail.

**Insurance**
All applicants must submit an indemnification form and obtain and maintain commercial liability insurance to cover property damage, personal injury, and death, with minimum limits of not less than $1,000,000 per occurrence. See the attached Insurance Requirements summary.

**Nuisances**
If complaints are received regarding nuisances caused by the use (e.g. noise, odors, etc), further conditions may be added to the permit to mitigate the nuisance. If conditions do not mitigate the nuisance, the permit may be revoked.
Notification
All applications require the notification and signature of the adjacent business owner (or property owner(s), if no business is present). Some uses may require additional notification and/or approvals, as outlined in the specific use sections in this guide.

Revocability
The applicant is responsible for maintaining the permitted use of the right-of-way in accordance with all conditions of the issued permit. Failure to comply with these conditions may result in revocation of the permit and civil penalties.

Signs
Signs must comply with the minimum standards within the commercial district they are located. Off-premise signs are not permitted anywhere within city limits.

Site Plan
A site plan must be submitted as part of the right-of-way use permit application, including the following information, as applicable:
- Abutting street names
- Abutting business(s) names and addresses (or property owner, if no business is present)
- Footprint, dimensions and setbacks of the proposed activity, including areas for queuing, seating, awnings, landscaping, waste receptacles, etc.
- Compliance with design requirements, if required in the specific requirements of the use.
- Existing street and sidewalk features within 20-feet of the proposed area of operation, including:
  - Property lines,
  - Sidewalk width,
  - Parking spaces (with dimensions),
  - Utility covers/boxes/poles,
  - Signs,
  - Parking meters,
  - Fire hydrants,
  - Street lights,
  - Bike racks,
  - Trees,
  - Sidewalk furniture,
  - Public art,
  - Curb cuts, driveways,
  - Bike lanes and auto traffic lane,
  - Any other physical features in the vicinity.

Storage of Materials
Storage of materials or vehicles in the right-of-way is prohibited. All furniture and other obstructions permitted by the right-of-way use permit must be removed within 7 days when not in use. Furniture and other obstructions may remain overnight or on days that the business is regularly closed.
Furniture may be secured to structures that are controlled by the operator of the adjacent business or, with permission, by the owner of the adjacent property. Furniture should be secured to allow for quick removal, such as with a cable and lock.

Transferability
Permits are not transferrable to other operators or locations.

Waste Management
The area of operation shall be maintained free of litter (including wind-blown litter). The operator shall provide container(s) for placement of food waste, recycling and/or other trash. City on-street waste receptacles shall not be used for this purpose. Waste receptacles must maintain the required pedestrian clearance at all times.

Zoning
All uses under this guide must comply with the underlying zoning.
Specific Requirements for Food Trucks

Food trucks/mobile food vendors are trucks or trailers licensed as a vehicle and equipped with facilities for cooking and/or selling food.

In addition to the General Requirements, a food truck/mobile food truck or trailer must meet the following requirements:

**Food truck located on private property (e.g. parking lot):**
Food trucks and mobile food vendors may be located on private property, subject to Fire Department review. Long-term or problem displacement of required onsite parking may require review and approval of a parking waiver or other mitigating measures.

**Food truck located within the right-of-way (e.g. on the street):**
The City may grant approval to operate in the right-of-way, including within public parking stalls, if eating establishments are allowed in that zone. This approval is subject to the following requirements:

1. Approval of the abutting business(s) (or property owner, if no business is present) and any existing eating establishment(s) located within 50-feet (measured from the point of the parcel nearest to the eating establishment in a straight line along the sidewalk to the area of operation).
2. Notification of all other ground-floor businesses (or property owners) on the block and facing block.
3. Verification of approval from Washington State Labor and Industries (photo of tag).
5. Verification that the location can safely accommodate the food truck/mobile food trailer without impacting the traveled way.
6. Displacement of handicapped accessible stalls is prohibited.

Upon approval to operate within a metered parking area, the permit holder must post temporary no parking signs 24-hours in advance of the closure. The date and time of prohibited parking, name of food truck, contact phone number, permit number and Bellingham Police Department number for the closure must be listed on the sign. See example here: https://www.cob.org/Documents/planning/applications-forms/special-events/no-parking-sign-example.pdf

Upon displacement of ten (10) parking stalls within a single zoning designation (e.g. commercial area of an urban village) a temporary moratorium will be placed on the issuance of additional permits to allow for the evaluation of parking impacts. Changes to the codes and policies may be issued prior to the lifting of the moratorium.
Specific Requirements for Parklets

*Parklets are an option for widening sidewalks for public space, sidewalk cafes or other uses. They typically incorporate landscaping, art, or other amenities. To create a parklet, a platform is built at grade with the sidewalk within one or more on-street parking stalls.*

In addition to the General Requirements, parklets must meet the following requirements:

**LOCATION**
1. Parklets function best in areas with existing high-level of pedestrian activity. Areas of lower activity/visibility will be reviewed on a case by case basis.
2. The location must not have a grade greater than 5% or a speed limit above 25 mph.
3. Approval of the abutting business(s) (or property owner, if no business is present) is required, and notification of all other ground-floor businesses (or property owners) on the block and facing block.
4. Use of handicapped accessible stalls is prohibited.
5. The parklet may not block stormwater drainage areas or other street side utilities or amenities.

Upon displacement of ten (10) parking stalls within a single commercial area (e.g. commercial area of an urban village), a temporary moratorium will be placed on the issuance of additional permits to allow for the evaluation of parking impacts. Changes to the codes and policies may be issued prior to the lifting of the moratorium.

**TABLE SERVICE/SIDEWALK CAFE**
Construction of a parklet to accommodate a sidewalk café is permitted in areas that do not otherwise have sufficient sidewalk width to permit such activity. Table service is permitted, however, parklets should be open and welcoming to passersby, even those who do not intend to patronize the business.

**ALCOHOL SERVICE**
If alcohol will be consumed within the parklet, additional endorsements to the liquor license may be required. Contact the Washington State Liquor and Cannabis Board for more information and additional requirements.

**DESIGN/ADA COMPLIANCE**
Because parklets may sit on top of critical infrastructure and utilities such as gas lines, sewer and water mains, they need to be designed for easy removal in case of an emergency. Parklets are reviewed according to the NACTO design guidelines: [https://nacto.org/publication/urban-street-design-guide/interim-design-strategies/parklets/](https://nacto.org/publication/urban-street-design-guide/interim-design-strategies/parklets/). Additional traffic safety features may be required, depending on the specific conditions at the proposed parklet location.
Parklets must be ADA compliant, including at least one entrance leading into the area being a minimum of 3-feet wide. If there is a change of grade, a ramp with a non-skid surface, a minimum 3-feet in width and slope not greater than 1:12 shall be provided.
Specific Requirements for Sidewalk Cafés

Sidewalk cafés provide open-air seating for eating or drinking establishments. Sidewalk cafes are often located partially on private property and spill out into the sidewalk, or may be established within an approved parklet, subject to certain conditions.

In addition to the General Requirements, a sidewalk cafe must meet the following requirements:

LOCATION

1. Permitted adjacent to an approved eating or drinking establishment with business owner approval.
2. A minimum of 8-feet of open public sidewalk must be available (5-feet for an ADA-compliant walkway and 3-feet for roadside features) before a sidewalk café may be considered.
3. In areas with a sidewalk width less than 8-feet, a parklet may be constructed to accommodate the sidewalk café (see specific requirements for parklets).

ALCOHOL SERVICE

• If alcohol will be consumed within the sidewalk café, additional endorsements to the liquor license may be required. Contact the Washington State Liquor and Cannabis Board for more information and additional requirements, including options for barrier-free sidewalk cafes.
• Consumption of alcohol will require an additional alcohol endorsement on the Certificate of Liability Insurance. See attached Insurance Requirements summary.

DESIGN /ADA COMPLIANCE

• Seating must be detectable to those with disabilities. Before purchasing fencing or furniture, consider its accessibility and design to those with vision impairment or mobility devices.
• If fencing is used, it shall be 30-42” in height (42” if alcohol is served).
• Fencing must be cane-detectable using one of the following elements (See Figures 9-11 below):
  o Toe rail with top edge a minimum of 6” in height and bottom edge no higher than 2” above ground surface (Figure 9), or
  o Continuous, firm barrier at 27” or less above the ground (Figure 10), or
  o Landscaped planters at least 30” tall, spaced no more than 24” apart (Figure 12).
• The entrances/exits to the café shall be parallel to the building face, not in line with the straight path of travel, to avoid pedestrians who are blind or low vision inadvertently entering the café.
• At least one entrance into the café area shall be a minimum of 3-feet wide.
• All installations shall be easily removable. Bolt-down features with threaded studs protruding from the sidewalk, and other similar permanent features, are not permitted.
• Barrier-free sidewalk cafes shall place diverters on either end of the café footprint that are between 30-40 inches tall, extend the entire length of the footprint, and abut the adjacent building extending at a 90-degree angle from the building face.

• Demarcations for barrier-free cafes may be simple painted or adhesive-style markings, or more decorative and permanent, provided:
  o Maximum lip height is ¼”, or ½” if beveled appropriately; and
  o Any installation should be removable without damaging the sidewalk.

![Figure 9: Fencing Design for Cane Detectability: Toe Rail](image1)

![Figure 10: Fencing Design for Cane Detectability: 27-Inch Tall Railing](image2)
FIGURE 11. CANE DETECTABILITY OF OBJECTS PROTRUDING FROM FENCING

- Protruding object entirely over 27" tall

- Protruding object at least partially at 27" or under

27" from ground surface

Café space

Pedestrian clear zone

4" maximum allowable

FIGURE 12. PLACEMENT REQUIREMENTS FOR PLANTERS USED IN LIEU OF FENCING

- 30" minimum height from ground surface

- 24" maximum spacing between items

- 4" maximum protruding from base
Specific Requirements for Sidewalk Vendors

A sidewalk vendor sells or distributes food or other products on the public sidewalk. It is different from a food truck/mobile food vendor in that the cart is easily and quickly moved by one operator and is not licensed as a vehicle for roadway use.

In addition to the General Requirements above, a sidewalk vendor must meet the following requirements:

**LOCATION**
1) Approval of the abutting business(s) (or property owner, if no business is present) is required.
2) If food is being sold, approval of any eating establishment within 50-feet (measured from the point of the parcel nearest to the eating establishment in a straight line along the sidewalk to the area of operation) is required.
3) Notification of all other businesses (or property owners) on the block is also required.

**ITEMS OR SERVICES FOR SALE**
- Items or services shall involve a short transaction period to complete the sale or render the service;
- Items must be immediately consumable or easily carried by pedestrians
- Persons selling produce and other food products produced by themselves, as exempt by RCW 36.71.090 and businesses selling items adjacent to their business do not require a permit.