

Draft Permit Conditions for On-Street Dining:

GENERAL CONDITIONS:

Bellevue City Code 14.60 provides that it is unlawful for any person to make private use of the public Right-of-Way without first obtaining a valid permit from the Transportation Department.

The Applicant is responsible for all City Permit fees in accordance with the Fee Ordinance. As part of the 2020 COVID-19 economic recovery effort, health, safety and welfare associated with this Permit, lease fees for use of the public right of way for the term of this Permit will be waived.

The applicant is advised that modifications of any Permit conditions may be required in order to mitigate/resolve unforeseen impacts or safety issues with the right of way use and activities authorized by this Permit.

Applicant agrees to abide by all terms and special conditions of this Permit including implementation of City approved temporary traffic control plans; obtaining, installing and removal of temporary traffic control devices; obtaining and providing all required Uniform Police Officers or other EMS personnel as may be required and associated costs/fees.

Applicant agrees to release, indemnify, defend and hold harmless the City of Bellevue, its employee, agents, representatives, and volunteers from any liability, damage, or injuries to the applicant's facilities, the applicant, their guests, employees, or any other person or property resulting from or arising in connection with the use of the right of way by the applicant under this Permit.

Issuance of this Permit is for On-Street dining only and does not constitute approval or issuance of any other activities. It shall be the responsibility of the applicant to ensure that any and all other permits required for the proposed use are obtained by the applicant.

A copy of the current approved Right of Way Use Permit, the special conditions, and the approved plans in an 11" x 14" sheet shall be available on site at all times and made available to any City of Bellevue personnel inspecting the area. (City inspections will not include compliance with WA LCB, L&I, or Safe Start requirements as those are inspected by other agencies and the responsibility of the Applicant/Permittee).

All uses for On-Street dining services must meet and adhere to requirements of the Governor's Safe Start Washington Phasing, King County Department of Health requirements and guidance and Washington State Department of Labor and Industries requirements. In alignment of Safe Start Phasing, the following On-Street dining options are provided with 30 calendar days to transitioning to the next level of use as approved by the City of Bellevue:

Safe Start Level 1/1 Modified: Restaurants/taverns a less than Zero to 25 percent capacity allowed – no bar area seating allowed.

Level 1 – No On-Street dining of any form and no gatherings. Curb-side pickup orders only – 3-minute provisions in designated areas with on-street parking remaining. Sidewalk Café’s permitted remain closed and no new applications approved

Level 1 Modified – No On-Street dining and curb-side pick-up orders only – 3-minute pickup provisions in designated areas with on-street parking remaining. Sidewalk Café’s permitted may be open in compliance with Level 1 Modified requirement and no new applications approved.

Safe Start Level 2: Restaurants/taverns at less than 50 percent capacity, table size no larger than five and no bar-area seating.

Provides for on-street parking areas only and may require a Sidewalk Café Permit to be issued before or concurrently. Maintains approved sidewalk Café permitting remaining open in compliance with Level 2 requirements and accepting new applications.

Safe Start Level 3: Restaurants/taverns at less than 75 percent capacity, table size no larger than 10, bar areas in restaurants/taverns at less than 25 percent capacity

Provides for On-Street dining in on-street parking areas. Maintains approved sidewalk Café permitting remaining open in compliance with Level 3 requirements and accepting new applications.

Safe Start Level 4 - Full restaurant capacities with no restrictions on capacity, table size and bar areas in restaurants/taverns returned to full capacity

Provides for On-Street dining in on-street parking areas only up to 30 calendar days following Level 4 approval. Maintains sidewalk Café permitting remaining open in compliance with Level 4 requirements and accepting new applications.

The Applicant and permitted parties operating under this Permit are responsible for ensuring compliance and taking corrective actions as may be required or directed by the applicable agencies, including maintaining social distancing, table seating limitations, restaurant and/or bar, coffee-shop and café occupancy load limitations in effect at any time or as amended.

Those operating under this On-Street use Permit shall have a current City of Bellevue business license and shall be from a business located within the immediate adjacent area. Vendor carts, retail services or other food trucks and services are not permitted within or adjacent to the on-street use area within public Right-of-Way.

All food preparation including cooking, assembly, plating shall occur within the adjacent café or restaurant building providing on-street dining services.

The On-Street dining areas designated for a café, coffee shop, bar and/or. Designated areas will extend from the face of adjacent business establishment and roadway curb to the edge of the travel lane; whereas, the combined travel lane and shy distance to a parallel vehicle barrier

shall be no less than 11.5'. Vehicle barriers shall terminate at and within existing curb extensions or face of curb. No abrupt barrier ends will be permitted. Barriers shall meet minimum requirements for roadside safety, including requirements of the Manual of Uniform Traffic Control Devices for areas visible and exposed to traffic.

Vehicle barriers shall meet traffic all applicable traffic safety standards for application with parallel traffic.

Temporary placement of outdoor wash stations and hand sanitizing stations or stations for staff set-up and wait service do not need to meet required setbacks along curbs and shall not intrude into designated crosswalks, access corridors or sidewalks.

It is the responsibility of the Applicant and Permittee

Permit modification is required if site conditions change or if the business changes ownership. An additional review fee will be charged for permit modification.

The Director of Transportation or designee may suspend the Permit for Transportation mobility or Public Safety purposes, for permitted Special Events, or any other official actions by the City of Bellevue.

The Director of Transportation or designee may modify the conditions of this Permit and as provided a Sidewalk Café or Seating Area permit after providing the permittee with written notice ten (10) days prior to modifying the Permit.

For unique circumstances with pre-established use (prior to August 2017), exceptions to these standards may be allowed at the discretion of the Transportation Director using the established procedure for Deviations and Exceptions.

No live music or amplified music is permitted at any time within the public right-of-way.

No floor coverings or carpets are allowed in On-Street dining areas.

The Applicant and those operating under this Permit accept that the City acting in an official capacity can clear the Seating Area or On-Street dining uses immediately. The City will not be responsible for any damage.

The storage of materials, items or other uses are strictly prohibited.

DEFINITIONS:

On-Street dining is defined as a permitted area within the public right-of-way and street located within existing on-street parking areas adjacent to curbs permitting for the temporary placement of tables and chairs/benches, table umbrellas, free standing tents (not to exceed 10 square feet individually or a cumulative 400 square feet) , washing stations, hand sanitizing stations, wait staff stations and materials for tables including coverings, table settings and tubs

for cleaning and clearing where patrons may be served food and/or beverages from an adjacent café, coffee shop, bar and/or restaurant.

Limits of the On-Street dining area may be Permitted between the area east of 100th Ave NE to west of Bellevue Way NE/SE and north of SE 1st Street to NE 1st/2nd Street, excluding travel lanes or intersections that shall remain open and Sidewalks or other Permitted Sidewalk Café or Seating areas.

Sidewalk area is defined as the area between the face of curb (excluding the curb) toward the building face, which is open to public access and circulation.

Sidewalk Café or Seating area is defined as those public areas of the sidewalk area, which are currently authorized by a City of Bellevue Permit if within the public Right-of-Way or may be an area within private property.

Permit is defined as the Right of Way Permit issued by the City of Bellevue. Permits are of a temporary nature, vest no permanent rights, and are revocable.

Applicant and Permittee are analogous and defined as the party applying for the Permit and issued to the Permittee.

INSURANCE REQUIREMENTS:

Proof of Insurance is required naming the City of Bellevue as an additional insured with a CG 20 12 or CG 20 26 endorsement in the following amount:

On-Street dining Permit - \$3,000,000 (This is currently under review. \$2,000,000 is required for Sidewalk Café Permits)

The applicant shall execute an Indemnification Hold Harmless Agreement with the City of Bellevue on a Form approved by the City of Bellevue.

SITE REQUIREMENTS AND PROVISIONS:

All street and sidewalk surfaces must remain free of dirt, litter, food waste, bottles, broken glass or any debris at all times. The applicant must provide, maintain, and remove trash and food waste to containers provided for the use by patrons by the Applicant. Trash containers are not permitted in the On-Street dining area, Sidewalks or Café or Seating Area.

All pedestrian walking surfaces must be inspected by the applicant regularly and the City must be notified upon discovery of any vertical displacement or significant void in the surface.

The On-Street dining area may be located between face curb limits of the street and shall not intrude or encroach into crosswalk areas or into sidewalk areas or curb extensions open to public access and circulation. On-Street dining may not obstruct public access along sidewalk areas open to the public or encroach into authorized use by a Sidewalk Café or Seating Area Permit.

- Setbacks:
 - On-Street dining tables and chairs/benches shall be setback no less than 10' from adjacent public cross-walks. (allow space for wait staff and patron movement without having to step over and down curbs)
 - No tables and chairs shall be located closer than 4' from storm drainage grates when unoccupied or occupied. (Should avoid pedestrian pathways that cross SD grates)
 - Tables and chairs shall be oriented to maintain no less than 6' of separation between when occupied or unoccupied maintaining Safe Start Phasing and maintaining ADA compliant access for all parties at all times.

All On-street dining features must be positioned in a manner that does not impede access to wheelchair ramps and otherwise meet all ADA accessibility requirements. It will be the responsibility of parties operating under this Permit to provide and maintain ADA accessibility to and from sidewalk areas and internal to dining areas for patrons, wait staff and service workers. Tables and seating must be readily moveable for ADA access. It is the food service establishments' responsibility operating under this permit to comply with Title III of the ADA.

All On-street dining features and materials shall be free-standing and shall not be secured to the streets, curbs or sidewalks through bolts, glues or other mechanisms.

All On-street dining tables, chairs and other devices must be maintained in an attractive manner that enhances the character of the street and surrounding area. Broken, rusted or damaged pieces must be immediately removed. On-Street dining material shall be heavy molded plastic, resin wicker, decorative metal or finish grade wood.

Any heating elements of a type approved by the Fire Marshall are allowed and must be fully within the footprint of the permitted On-street dining area. Additional Permits may be required for placement of any heating elements.

Table and wait staff service areas with umbrellas or canopies are permitted within the on-street dining area and the lowest part of the umbrella or canopy must not be less than 6'-8" above the street surface when fully opened.

Café, coffee shops, bars and/or restaurants operating under this permit must have an attendant, wait staff or server dedicated to outside service area when patrons are present.

No materials shall be discharged, dumped or flushed into the City's storm drainage system, parking area or street

No generators or additional lighting of any kind is permitted within the On-Street dining area, except DC or solar lighting, which is permitted for menu kiosks, wait staff stations or integral to table umbrellas and tent canopies. No open flames or candles are permitted, and no electrical cords are permitted in the On-Street dining area or across Sidewalks, curb ramps, curb/gutter, etc.

Café, Coffee Shops, Bar and/or Restaurants operating under this Permit are allowed to have small kiosk providing menus for potential patrons to read in making a selection of a seating area.

If small movable planters are to be used to for ambiance and compliance with alcohol licenses and establishing limits, they shall be able to be moved immediately. Planters shall not exceed X width, X depth and XX-inches in height, including any decorative foliage. If stanchions with rope or tape are used to establish limits in accordance with WA LCB requirements they shall not exceed 42-inches in height and have the ability to be removed immediately. No portion of a temporary stanchion may intruded into ADA spaces. (This needs to be reviewed if a bookend to meeting WA LCB requirements)

- Other railings or other barriers are not permitted within the On-street dining area or allowed to extend across and block sidewalks, ramps or doorways or emergency exits. (This is a safety issue should the area need to be cleared quickly for EMS, PD or other services)

All materials used for on-street dining shall be removed at the end of each Saturday permitted hours. No materials shall be stored in other public sidewalk areas or on-street parking areas.

SMOKING AND WASHINGTON STATE LIQUOR CANNABIS BOARD CRITERIA:

No-Smoking is permitted within the On-Street dining area.

If services operating under this permit hold a liquor license from the Washington State Liquor and Cannabis Board, and licensing requirements comply with serving alcohol on-street, alcohol may be served. The City shall be informed of such permitted uses. The applicant and parties restaurants operating under this permit are responsible for compliance with all license provisions including compliance and prohibitions of alcohol being removed from the premises.

MONTHS, DAYS AND HOURS OF OPERATION:

This Permit provides for On-Street dining to operate in designated on-street parking areas from July 15 thru September 11 over consecutive days, including a federal holiday.

All food service materials deliveries and removal of solid waste shall occur on days of the week and hours outside of the permitted days and hours of operation. No additional lane closures, momentary stopping within open travel lanes for the delivery of goods or services are permitted. No additional roadway or sidewalk closures other than those provided under this Permit are allowed or provided. No vehicles except City vehicles may be parked, stop or stand on City streets or live lanes.

This permit shall be for Fridays and Saturdays as provided below:

On-Street dining areas may remain closed within the dates noted above for 24 hours. Temporary barricades with clear legible notices shall be placed 72 hours in advance indicating the date(s) and time of the pending closures.

On-Street dining services hours are as provided below:

Dining service hours will generally follow the permitted parties business hours, but shall not extend beyond 10:00 pm nightly;

The designated days of week and hours of operation are critical to ensuring other services, businesses and residential uses are maintained outside of the Permitted days and hours.

PERMIT APPLICATION REQUIREMENTS:

The Applicant shall file for a TE Right-of-Way Use Permit through www.MyBuildingPermit.com and is responsible for payment of the application fees and review fees. The fees are non-refundable.

The Applicant shall identify the proposed On-Street dining area, and shall identify the Building owners authorization, if different from restaurant owner, verifying that the On-Street dining will be operated by a food service establishment that is permitted by the King County Department of Public Health for those that will be operating under the Permit.

The Applicant shall provide a site plan drawn out to an engineer's scale of 1" = 20' showing the following (with dimensions shown):

1. Property addresses and business name as noted above
2. Designated Street names and north arrow
3. Location of property lines and dimensions of the area proposed for the On-Street dining area.
4. Limits of the Emergency Access through the full closure or offset and barrier locations for half street closures as provided herein.
5. The location of all traffic control devices and hard traffic barriers to dimensional scale.
6. The location of street crosswalks, and ADA access ramps to dimensional scale

7. Location of all proposed seating elements, including tables, chairs, umbrellas, tents, wait stations, hand sanitizing stations, hand wash stations, menu kiosks, proposed ramps to/from adjacent businesses, demarcation (pavement markings, railings, planters, etc.), decorative planters, or other fixtures and their dimensions to scale.
8. Location of any Fire Department connections or standpipes at buildings
9. Location of all existing improvements on the street and adjacent sidewalk including tree grates/tree wells, fire hydrants, streetlight/poles, utility poles, street furniture, bike racks, utility covers, catch basins, etc. and their distance from the proposed seating.
10. The existing curb to curb for the proposed On-Street dining area to scale
11. Layout and dimensions of pedestrian circulation paths including the location of all Permitted Sidewalk Café or Seating areas.
12. Locations of restaurant or café entrances
13. Location of stanchions, street lights or other elements that may obstruct access or emergency evacuation from the on-street dining area.

Layout of Seating Areas:

Required area per occupant/chair is 15 square feet or as determined in accordance with Chapter 10 of the IBC, as adopted by the City.

Umbrellas or tents are allowed within the footprint of the permitted, but the lowest part of the umbrella must not be less than 6'-8" above the street surface when fully opened. Umbrellas may encroach on the pedestrian circulation path outside of the permitted area provided the lowest part of the umbrella is a minimum of 8 feet above sidewalk or roadway.

The site shall be designed to support the City to clear the On-Street dining immediately in the event of an emergency. The City will not be responsible for any damage.

Responsibilities of the Permittee

The permittee shall have a copy of the permitted layout of the On-Street dining area on site and readily available for review if necessary.

The permittee is responsible for ensuring the On-Street dining activity remains within the permitted area.

The permittee shall maintain the street, on-street parking, sidewalk and adjacent public spaces to keep it clean and free of debris of any kind generated by the On-Street dining area.

The permittee shall address any pest (rodent, bird, etc.) concerns or issues associated with the On-Street dining and will comply with all Health Department requirements.

The permittee shall ensure that the activities of the On-Street dining will not create a nuisance or hazard to public health, safety, or welfare and will not interfere with access to abutting or adjacent property.

The permittee shall immediately remove the On-Street dining elements when ordered by the Director of Transportation, the Chief of Police, the Fire Chief, or other City official.

Permit Administration, Expiration and Renewal

Permit modification is required if site conditions change or if the business changes ownership. An additional review fee will be charged for permit modification.

Permits are of a temporary nature, vest no permanent rights, and are revocable.

Should it be necessary for the City to perform street or utility maintenance activities or respond to an immediate issue, the City reserves its authority to remove items placed in the permitted area and will return those items within the permitted area. If there are non-City Utilities that require access to install or maintain electrical, gas or data/telecommunications services the City retains its authority to permit those activities and will condition the utility to provide advance notification when possible.

The Director of Transportation may suspend the permit for transportation mobility or public safety purposes, for permitted Special Events, or any other permitted activity.

The Director of Transportation may modify the conditions of a On-Street dining area permit after providing the permittee with written notice ten (10) days prior to modifying the permit.

Penalties – Suspension or Loss of Permit

The On-Street dining area must be in compliance with all permit conditions and seating standards. Noncompliance may result in suspension or revocation of the permit.

Written notices will be issued for non-compliance of any standards and conditions, including but not limited to:

- Encroachment beyond the permitted area
- Tables and chairs in excess of the permitted number
- Violation of noise code requirements
- Occupancy beyond the permitted hours of operation.

Three written notices within the annual permit timeframe will result in the permit being suspended for thirty (30) days. After the first violation the City may require additional fees to cover the cost of inspection.

Repeated suspensions may result in revocation of the permit at the discretion of the Director of Transportation.

Other Prohibited Uses

- Outdoor storage is not allowed.
- No trash cans or refuse storage containers are allowed at any time.