

MAYOR'S EMERGENCY DIRECTIVE
Outdoor Dining on Private Property
Executive Order 2020-04

WHEREAS, on February 29, 2020, the Governor of the State of Washington declared a State of Emergency in response to the COVID-19 outbreak in Washington State, which proclamation was amended by the Governor on March 23, 2020 and again on March 24, 2020. The COVID-19 disease is caused by a virus that spreads easily from person to person which may result in serious illness or death; and

WHEREAS, on March 11, 2020, the World Health Organization declared the rapidly spreading COVID-19 a pandemic; and

WHEREAS, on March 12, 2020, the Mayor of the City of Bremerton executed a Proclamation of Emergency allowing for the utilization of emergency powers to respond to said emergency; and

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation declaring a national emergency concerning the COVID-19 outbreak; and

WHEREAS, the Governor of the State of Washington has issued additional proclamations to date in response to this emergency. On March 23, 2020, the Governor issued Proclamation 20-25 imposing a "Stay Home - Stay Healthy Order" throughout the state; and

WHEREAS, Section 5 of the Phase 2 Restaurant & Tavern Reopening COVID-19 Requirements issued by the Governor's office on May 11, 2020, further provides that outdoor restaurant seating is permissible with appropriate social distancing; and

WHEREAS, the Governor's office issued updated guidance for restaurants and taverns on July 24, 2020, titled "Phase 2 and Phase 3 Restaurant, Tavern, Breweries, Wineries and Distilleries COVID-19 Requirements" which further limits the number of customers that can be served, and excludes the service of alcohol indoors severely impacting the economic health of this industry; and

WHEREAS, outdoor activities, including restaurant seating, have been determined to be safer and less likely to lead to the spread of COVID-19 than indoor restaurant seating; and

WHEREAS, the Bremerton Municipal Code 20.48 titled "Off-street Parking Requirements" establishes the minimum required parking for various uses, including dining establishments, and does not currently allow reductions in required parking areas for outdoor dining; and

WHEREAS, the Mayor finds that it is in the best interest of the economic future of both the City of Bremerton and its existing local businesses to allow dining on outdoor private property, such as the required parking areas or the landscaping areas, to help mitigate the economic hardships currently being experienced by local merchants, NOW THEREFORE;

BASED ON THE AUTHORITY GRANTED PURSUANT TO THE MAYOR'S PROCLAMATION OF EMERGENCY, THE MAYOR ISSUES THIS EMERGENCY DIRECTIVE AS FOLLOWS:

1. This permit is intended only for establishments that have obtained land use approval from the Department of Community Development to establish outdoor dining as a temporary accessory use.
2. Applicants are required at all times to comply with the most recent guidance from the Governor's Office regarding Restaurants, Taverns, Breweries, Wineries and Distilleries COVID-19 Requirements.
3. No fee will be charged for permits issued under this directive.
4. Unless extended by the City, all permits will expire 30 days from the date that the restrictions pertaining to restaurant operations contained within Governor Inslee's Executive Orders, as amended, are lifted. If the City has not extended these regulations or adopted permanent regulations permitting outdoor seating areas, these areas shall be removed and restored back to their original condition. If the City has adopted permanent regulations, then continued use of the outdoor seating area shall be subject to such regulations, including but not limited to, obtaining a permit and paying any required fees.
5. Applicants shall submit a completed form, created by the City, which identifies the name and address of the business, a contact person, and the approximate capacity of the outdoor space.
6. Applicants shall sign the 'Indemnification and Waiver of Liability and Acknowledgment of Conditions' form provided by the City that holds the City harmless for any claims made for, or damages resulting from the applicant's operation of the outdoor dining area.
7. The requesting business is responsible to coordinate with all nearby affected businesses and property owners that share common parking spaces to identify issues and concerns.
8. Applicants are required at all times to ensure that noise levels emanating from the outdoor seating area comply with Bremerton Municipal Code 6.32.040 regarding maximum permissible levels of environmental sound.
9. The requesting business is solely responsible to ensure that permission is obtained from the property owner.
10. All outdoor seating areas shall be operated in a safe and sanitary manner and are subject to the following terms and conditions to ensure compliance with:
 - a) All applicable provisions of Chapter 17 of the Bremerton Municipal Code, including but not limited to, the International Building Code, the International Fire Code, and the National Electric Code;
 - b) All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - c) Accessibility requirements of the Americans with Disabilities Act (ADA);
 - d) All applicable provisions of the code of the Kitsap County Health District;
 - e) The Kitsap County and City of Bremerton public health COVID-19 guidelines for restaurants; and
 - f) Washington's Safe Start re-opening phasing plan, including any directives issued by the State of Washington.
11. The only permitted furniture within the temporary outdoor dining area are tables, chairs, and properly anchored umbrellas, or other items specifically approved by the City. Tents or other structures requiring a separate permit are not permitted unless specifically approved by the City.

12. Emergency access to all adjacent structures must be maintained at all times.
13. Operation of the outdoor seating shall be limited to the times between 7:00 AM and 10:00 PM.
14. Alcohol is prohibited to be served unless approved by the Washington State Liquor and Cannabis Board.
15. All businesses shall have a valid City of Bremerton Business License and comply with all laws, ordinances, and regulations regarding food and alcohol handling in an outdoor setting.
16. The Director shall have the authority to revoke an approved temporary outdoor expansion permit if any of the following occurs:
 - a) The applicant has misrepresented facts or provided false information in the temporary outdoor expansion application;
 - b) The outdoor area is operated in violation of the terms or conditions of the outdoor expansion permit;
 - c) The outdoor area constitutes a public nuisance or a hazard to the public health, safety, or welfare of the public, or is endangering the life or property of others.
17. The failure of an eating or drinking establishment to adhere to the terms and conditions set forth in the registration or permit or to be found operating in a manner that creates a public nuisance may result in modification, suspension, or revocation of the registration or permit. If revoked, the establishment shall not be permitted to operate another outdoor seating area during the duration of this ordinance, and any extension thereof unless separate approval is granted by the Director of Community Development, which may contain additional conditions. Approval of said permit shall be in the director's sole discretion.
18. The permit may be denied, or the conditions of the permit may be altered, or approval withdrawn at any time based on health guidelines or orders and restrictions of the State or Kitsap Public Health District, for safety issues and/or for any reason the City deems appropriate. The City reserves the right to order a business operator to remove all furniture and vacate the occupied space should their business (i) create an obstruction to, or cause congestion of, pedestrian or vehicular traffic; (ii) the business operations present a danger to the health, safety, or general public welfare; and (iii) the business operator violates these regulations in this Directive, or the City otherwise terminates the permit.
19. This directive shall take effect immediately upon execution and remain in effect until the Mayor takes action terminating this directive or declaring the end of the emergency at which time this directive shall be effectively and automatically repealed, unless otherwise provided.

This EMERGENCY DIRECTIVE is executed this 6th day of August, 2020.



GREG WHEELER, MAYOR



City of Bremerton
Department of Community
Development
345 6th Street, Bremerton, WA, 98337
dcdpermits@ci.bremerton.wa.us
bremertonwa.gov

STAFF USE Date Received:

Temporary Outdoor Dining Expansion Application

Mayor Greg Wheeler has enacted new temporary allowances for restaurants and bars to expand their eating and drinking areas into adjacent private spaces, such as within a parking lot. This application must be submitted to the City prior to these expansions. If you are looking to expand into the public right-of-way, such as into a sidewalk or street parking, please see the Right-of-Way permit application.

BUSINESS INFORMATION:

BUSINESS NAME:		
ADDRESS:		
CONTACT PERSON:		
EMAIL & PHONE:	Email:	Phone:
APPROXIMATE OCCUPANCY OF OUTDOOR AREA:		

Please attach:

- 1: Site plan showing the proposed location of the outdoor seating area in relation to the main building and other nearby features.
- 2: Completed "Indemnification and Waiver of Liability and Acknowledgment of Conditions" form (Attachment A)

This permit and any provisions contained herein do not interfere or supersede any contractual obligations. Registrants are solely responsible for ensuring authorization from the property owner to utilize any areas for outdoor seating.

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CONDITIONS:

1. By applying for this permit you agree to the terms and conditions contained within Mayor’s Executive Order Emergency Proclamation 2020-04.
2. All outdoor seating areas shall be operated in a safe and sanitary manner and are subject to the following terms and conditions to ensure compliance with:
 - A. All applicable provisions of Chapter 17 of the Bremerton Municipal Code, including but not limited to, the International Building Code, the International Fire Code, and the National Electric Code;
 - B. All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - C. Accessibility requirements of the Americans with Disabilities Act (ADA);
 - D. All applicable provisions of the code of the Kitsap County Health District;
 - E. The Kitsap County and City of Bremerton public health COVID-19 guidelines for restaurants; and
 - F. Washington’s Safe Start re-opening phasing plan, including any directives issued by the State of Washington.
3. Unless extended by the City, all permits will expire 30 days from the date that the restrictions pertaining to restaurant operations contained within Governor Inslee’s Executive Orders, as amended, are lifted. If the City has not extended these regulations or adopted permanent regulations permitting outdoor seating areas, the applicant shall remove these areas and restore them back to their original condition. If the City has adopted permanent regulations, then continued use of the outdoor seating area shall be subject to such regulations, including but not limited to, obtaining a permit and paying any required fees.
4. The failure of an eating or drinking establishment to adhere to the terms and conditions set forth in the registration or permit or to be found operating in a manner that creates a public nuisance may result in modification, suspension, or revocation of the registration or permit. If revoked, the establishment shall not be permitted to operate another outdoor seating area during the duration of this ordinance, and any extension thereof unless separate approval is granted by the Director of Community Development, which may contain additional conditions. Approval of said permit shall be in the director’s sole discretion.
5. Emergency access to all adjacent structures must be maintained at all times.
6. The only permitted furniture within the temporary outdoor area are tables, chairs, and Properly anchored umbrellas, or other items specifically approved by the City. Tents or other structures requiring a separate permit are not permitted unless specifically approved by the City.
7. Alcohol is prohibited to be served unless approved by the Washington State Liquor and Cannabis Board.
8. The Director shall have the authority to revoke an approved temporary outdoor expansion permit if any of the following occurs:
 - A) The applicant has misrepresented facts or provided false information in the temporary outdoor expansion permit application;
 - B) The outdoor area is operated in violation of the terms or conditions of the outdoor seating permit;
 - C) The outdoor area constitutes a public nuisance or a hazard to the public health, safety, or welfare of the public, or is endangering the life or property of others.

Printed Name of Applicant: _____

Signature of Applicant: _____ **Date:** _____

Outdoor Dining Expansion on Private Property Indemnification and Waiver of Liability and Acknowledgment of Conditions

Purpose: This form must be filled out and submitted prior to the issuance of a permit authorizing outdoor dining expansion on private property in the City of Bremerton (City).

This waiver of liability and indemnification is signed this ____ day of _____, 20____, by _____, the person or entity responsible for the dining area approved in Permit No. _____ (herein after Permittee).

- The Permittee agrees to indemnify and hold harmless the City for any claims made for, or damages resulting from the Permittee's operation of dining area identified in Permit No. _____.
- The conditions of the permit may be altered, or approval withdrawn at any time up to and including the time of the event based on health guidelines or orders and restrictions of the State or Kitsap Public Health District, for safety issues and/or for any reason the City deems appropriate.
- The Permittee is responsible for adhering to the Safe Start program, health, and social distancing requirements, and any other applicable laws, regulations, proclamations, and orders.
- The issuance of a permit by the City does not constitute authorization or compliance under any other law, proclamation, or order of a separate government entity.

The Permittee and/or Permittee's representative has fully read this Indemnification and Wavier of Liability and Acknowledgment of Conditions and understands, acknowledges, and agrees to the above conditions by signing below.

Permittee's Representative: _____
Permittee's Representative Printed Name: _____
Permittee's Printed Name: _____