

MAYOR'S EMERGENCY DIRECTIVE
Outdoor Dining in the Right-of-Way
Executive Order 2020-03

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 outdoor 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, on June 25, 2020, the National Association of City Transportation Officials (NACTO) published guidance titled "Streets for Pandemic Response & Recovery" which outlines recommendations to provide space for outdoor dining so that restaurants can comply with physical distancing guidelines while resuming dine-in operations; and

WHEREAS, the June 25, 2020 NACTO guidance is a streamlined approach to developing Parklets as outlined by NACTO in its Urban Street Design Guide; and

WHEREAS, the Mayor finds that it is in the best interest of the economic future of both the City of Bremerton and it's local businesses to allow dining on City streets in locations currently reserved for on-street parking 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) Type A right-of-way permits may be granted to existing restaurants and taverns to use parking areas of City streets adjacent to their businesses for outdoor dining, including liquor sales.

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 Type A right-of-way permits issued under this Directive. Further, the 4-week limitation of Type A right-of-way permits as outlined in BMC 11.02.080(A)(1) is suspended. All Type A right-of-way permits issued under this Directive shall terminate on or before October 15, 2020.

4) Applicants shall submit a sketch identifying their requested area which identifies the general location of fences, temporary ADA ramps, tables and chairs, and any other items proposed to be installed in the parking area. The City will use this sketch to develop a Traffic Control Plan where expansion into the right-of-way can be accomplished safely, meeting best practice, and in compliance with all Federal, State and Local laws and regulations. Requests that cannot be accommodated safely will be denied. Traffic Control Plans and parking closure area will be developed by the City in consultation with the requesting business and considering the guidance outlined in the NACTO Streets for Pandemic Response & Recovery (https://nacto.org/wp-content/uploads/2020/07/NACTO_Streets-for-Pandemic-Response-and-Recovery_2020-07-15.pdf), the NACTO Urban Streets Design Guide (<https://nacto.org/publication/urban-street-design-guide/interim-design-strategies/parklets/>), and considering the specific location. Additional limitations and requirements will be identified on the plan prepared by the City based on the specific location.

5) The requesting business is responsible to coordinate with all neighboring businesses on the block to identify issues and concerns, and communicate those concerns to the City for consideration in developing the Traffic Control Plan.

6) At all times, an unobstructed pedestrian pathway shall be maintained at least 4-foot in width along the sidewalk. ADA access, both along the sidewalk, and to-from the expanded dining areas shall be maintained at all times. In most cases temporary ramps will be required to accommodate ADA access.

7) The City will provide all traffic control devices required by the City-developed traffic control plan at no cost to the requesting business, and will additionally be responsible for the initial installation. The requesting business is responsible for maintaining the devices once installed, and notifying the City of any issues or concerns. During the term of the permit, any take down and reinstallation of the traffic control devices, along with procuring, installing and maintaining any other structures or barriers necessary for the expanded use within the right-of-way is the responsibility of the requesting business. Final removal of the traffic control devices at the termination of the permit period will be completed by the City in coordination with the requesting business. All traffic control devices shall be in compliance with the Manual on Uniform Traffic Control Devices (MUTCD), and as identified in the Traffic Control Plan. The City shall meet with the business on-site during initial installation of the traffic control devices. Time limit restrictions on the right-of-way occupation shall be identified in the right-of-way permit, or as otherwise identified by the City.

8) This expanded right-of-way usage is for dining purposes only; cooking, refrigeration, food preparation, or other related operating equipment is not allowed.

9) Overhead coverings such as umbrellas, tents and shelters shall be pre-approved and shall not encroach into the pedestrian pathway. Umbrellas may encroach when opened provided they are eight feet above sidewalk grade in height. In no event may coverings or umbrellas extend beyond the traffic control devices, obscure line-of-sight in the right-of-way, or create a safety hazard.

10) Heating elements are permitted but must be contained within the designated area.

11) Businesses may not impede or impair emergency response service ingress and egress or impede any emergency response access to any fire hydrant or building.

12) Businesses may operate within the right-of-way between 7:00AM and 10:00PM.

13) 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.

14) 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 barriers and vacate the right-of-way 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.

15) Additionally, the City may require removal, temporary or permanent, due to City requirements or utility company requirements that have franchise or other right to the public

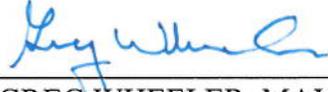
right-of-way. The business shall be responsible to the City for any removal costs if the business owner fails to vacate the right of way after reasonable written notice from the City.

16) The City is not responsible for any damages or loss of any business personal property.

17) The requesting business must have Commercial General Liability insurance written on an occurrence basis with limits no less than \$1,000,000 for personal injury, bodily injury, and property damage. The City must be added as an additional insured. Coverage must be primary and noncontributory. Coverage must include a waiver of subrogation. If alcohol will be served or consumed within the permit area, the applicant must have liquor liability coverage with a limit of not less than \$1,000,000 per occurrence.

18) 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 29th day of July, 2020.



GREG WHEELER, MAYOR