

**MAYOR'S EMERGENCY DIRECTIVE**  
Outdoor Commercial Expansion on Private Property  
**Executive Order 2020-05**

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, the Phase 2 Reopening COVID-19 Requirements issued by the Governor's office on May 11, 2020, and as amended, further provides that outdoor business activities are permissible with appropriate social distancing; and

WHEREAS, the Governor's office has continuously issued updated guidance for various commercial activities which further limit the number of customers that can be served, and

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

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

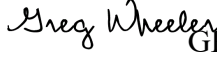
WHEREAS, the Mayor issued an emergency directive on August 6<sup>th</sup>, 2020, pertaining to the use of outdoor private spaces for eating and drinking places, which is superseded by this order,  
NOW THEREFORE;

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 expansion 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 COVID-19 Requirements.
3. No fee will be charged for permits issued under this directive.
4. Unless extended by the City, this permit will expire 30 days from the date that the restrictions pertaining to commercial operations contained within Governor Inslee's Executive Orders, as amended, are lifted, or 180 days from the date of issuance, whichever is sooner. If the City has not extended these regulations or adopted permanent regulations permitting outdoor occupant areas, or unless the applicant has re-applied under the provisions of this permit, 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 occupant 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, the approximate capacity of the outdoor space, a site plan of the proposed and existing space, and a description of any structures installed or constructed as part of the permit.
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 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 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 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 Chapters 17 and 18 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 area are tables, chairs, and properly anchored umbrellas, tents or other similar structures specifically approved by the City. The maximum size of any tent or other ground-covering structure is 400 square feet. No tent, awning, or similar temporary structure may attach to any permanent structure on-site.
12. Emergency access to all adjacent structures must be maintained at all times. No route for ingress or egress to the property or any structure may be blocked.
13. Operation of the outdoor area 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. The use of any form of artificial heating, be it electric, gas, wood, or otherwise, is not granted by this permit.
16. 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.
17. The Building Official and 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.
18. The failure of a commercial 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 area during the duration of this directive, 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.
19. 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 structures and 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.
20. 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 10th day of November, 2020.

DocuSigned by:  
  
GREG WHEELER, MAYOR  
BAF46095E8E747B...



**City of Bremerton**  
**Department of Community**  
**Development**  
 345 6<sup>th</sup> Street, Bremerton, WA, 98337  
[dcdpermits@ci.bremerton.wa.us](mailto:dcdpermits@ci.bremerton.wa.us)  
[bremertonwa.gov](http://bremertonwa.gov)

**STAFF USE**  
**Date Received:**

## Temporary Outdoor Commercial Space Expansion Application

Mayor Greg Wheeler has enacted new temporary allowances for non-residential uses that have obtained an occupancy permit in the City of Bremerton to expand typical interior occupant area into adjacent outdoor private spaces, such as within a parking lot or yard. This application may be used by any permitted non-residential land use, either for-profit or not-for-profit, including religious entities, schools, community centers, retail stores, eating and drinking places, and any other general commercial use that can legally be operated outdoors. This application must be submitted to the City prior to these expansions.

### **BUSINESS INFORMATION:**

<b>BUSINESS NAME:</b>		
<b>ADDRESS:</b>		
<b>CONTACT PERSON:</b>		
<b>EMAIL &amp; PHONE:</b>	Email:	Phone:
<b>APPROXIMATE OCCUPANCY OF OUTDOOR AREA:</b>		

Please attach:

- 1: Site plan showing the proposed location of the outdoor occupant area in relation to the main building and other nearby features.
- 2: Description of any temporary structure planned to be installed as part of this permit, including but not limited to tents, awnings, or canopies.
- 3: 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.*

**CONTINUE ON NEXT PAGE**

1. This permit is intended only for establishments that have obtained land use approval from the Department of Community Development to establish outdoor expansion 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 COVID-19 Requirements.
3. No fee will be charged for permits issued under this directive.
4. Unless extended by the City, this permit will expire 30 days from the date that the restrictions pertaining to commercial operations contained within Governor Inslee's Executive Orders, as amended, are lifted, or 180 days from the date of issuance, whichever is sooner. If the City has not extended these regulations or adopted permanent regulations permitting outdoor occupant areas, or unless the applicant has re-applied under the provisions of this permit, 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 occupant 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, the approximate capacity of the outdoor space, a site plan of the proposed and existing space, and a description of any structures installed or constructed as part of the permit.
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 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 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 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 Chapters 17 and 18 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 area are tables, chairs, and properly anchored umbrellas, tents or other similar structures specifically approved by the City. The maximum size of any tent or other ground-covering structure is 400 square feet. No tent, awning, or similar temporary structure may attach to any permanent structure on-site.
12. Emergency access to all adjacent structures must be maintained at all times. No route for ingress or egress to the property or any structure may be blocked.
13. Operation of the outdoor area 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. The use of any form of artificial heating, be it electric, gas, wood, or otherwise, is not granted by this permit.
16. 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.
17. The Building Official and the Director shall have the authority to revoke an approved temporary outdoor expansion permit if any of the following occurs:
  - d) The applicant has misrepresented facts or provided false information in the temporary outdoor expansion application;
  - e) The outdoor area is operated in violation of the terms or conditions of the outdoor expansion permit;
  - f) 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.
18. The failure of a commercial 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 area during the duration of this directive, 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.
19. 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 structures and 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.

**Printed Name of Applicant:** \_\_\_\_\_

**Signature of Applicant:** \_\_\_\_\_ **Date:** \_\_\_\_\_

# Outdoor Commercial 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 commercial 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: \_\_\_\_\_