



Commercial Right-of-Way Use Permits

A guide to food trucks, mobile food vendors, parklets, streateries, sidewalk cafes, street vendors and other commercial uses of the public right-of-way.



Table of Contents

Introduction	3
Definitions.....	4
Licensing.....	4
General Requirements.....	5
Specific Requirements	
Food Trucks and Mobile Food Vendors	8
Parklets and Streateries.....	9
Sidewalk Cafes	10
Sidewalk Vendors.....	11

Additional Links and Attachments:

[Public Works Permit Application](#)

[Fee Schedule](#)

Signature Approval/Notification Form

Insurance Requirements

Indemnification and Insurance Form

Version 5 updates:

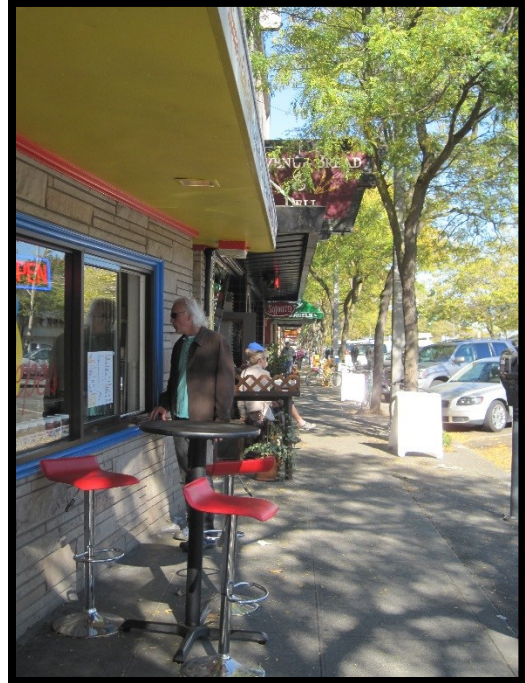
- Updated definition of “parklet”
- Added definition and requirements of “streateries”
- Added requirements for streatery and parklet covers
- Updated demarcation requirements for barrier-free sidewalk cafes
- Added building and fire permit application requirements
- Food Truck page, added line about complying with IFC 319

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 cafés, food trucks, parklets and streateries.

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 approved by L&I equipped with facilities for cooking and/or selling food.

Parklet: A segment of right-of-way, typically one or two parking spaces, that has been converted for public space for all to enjoy.

Right-of-way (ROW): Land acquired or dedicated for public roads, streets, alleys and/or sidewalks, regardless of whether 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.

Streatery: A combination of a parklet and sidewalk café. Provides converted parking space(s) or drive lane(s) for table service and is used by an abutting business.

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>

Whatcom County Health Department: <http://www.co.whatcom.wa.us/867/Food-Safety>

Washington State Department of Labor and Industries:

<http://www.lni.wa.gov/main/smallbusiness/BusinessRequirements.asp?&source=FF>

<https://www.lni.wa.gov/licensing-permits/manufactured-modular-mobile-structures/food-trucks-trailers/>

Washington State Liquor and Cannabis Board: <https://lcb.wa.gov/>

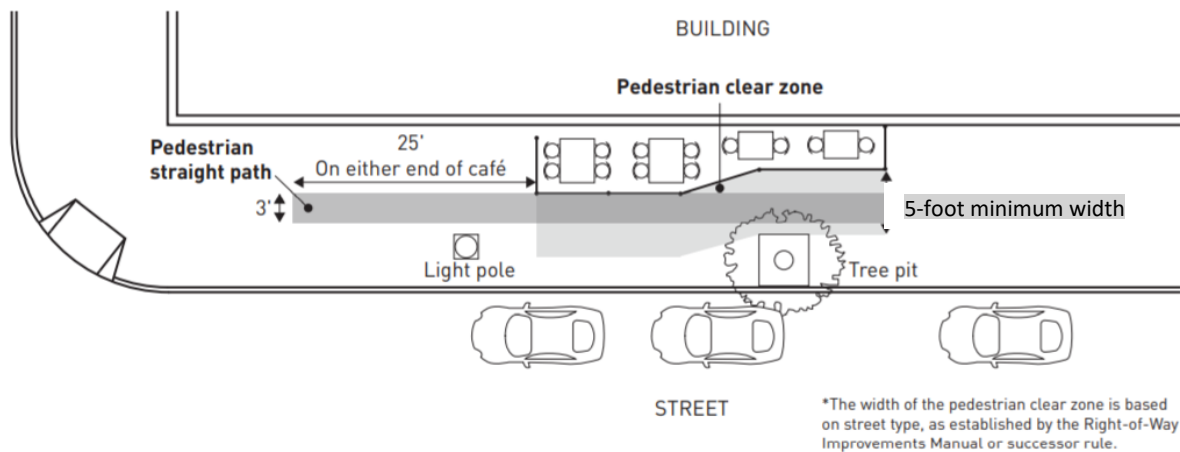
General Requirements

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 and roadside features. 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.

FIGURE 2. PEDESTRIAN CLEAR ZONE AND PEDESTRIAN STRAIGHT PATH



Annual Renewal

Permits are valid for one year from date of issue 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 Requirements

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

- 1) [Public Works temporary right-of-way use permit application](#)– Complete all required fields.
- 2) [Site plan](#) - Show the proposed area of operation and additional required information. See Site Plan, below.
- 3) [Building permit application](#) – Required for proposals that include a structure or overhead covering greater than 120 square feet. The Fire Department will also review any covered structures.
- 4) [Electrical permit application](#) – Required for proposals that include electrical wiring.

VERSION 6

12/1/21

- 5) 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.
- 6) 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. See Insurance section below.
- 7) Associated permit fees - See Fees section below.

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 and conditions 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, fire hydrants, and other obstructions located on the sidewalk.

These considerations will determine whether the proposed use would result in pedestrian or street congestion, compliance with ADA requirements, 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 approval 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. Application fees are non-refundable, including situations where the use of the right-of-way terminates before the permit expiration date.

VERSION 6

12/1/21

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. It is the applicant's responsibility to ensure that the City has a current and valid copy of the applicant's Certificate of Liability Insurance at all times. Updated certificates are required to be submitted by the applicant before the term of the current certificate lapses. If at any time the City does not have a current and valid Certificate of Liability Insurance, the permit is considered incomplete and the ROW use is unpermitted and may be required to be removed.

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 and requirements of this Guide and [Bellingham Municipal Code 13.14](#). Failure to comply with these conditions and requirements 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 permit application and include 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:

VERSION 6

12/1/21

- 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, and
- 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.

Requirements for Food Trucks and Mobile Food Vendors



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

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

1. Food trucks are only permitted where zoning allows eating establishments.
2. Food trucks must comply with International Fire Code Section 319, where applicable.
3. 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).
4. Notification of all other ground-floor businesses (or property owners) on the block and facing block, including corner lots that may have an address on an intersecting street.
5. Verification of approval from Washington State Labor and Industries (photo of tag).
6. Minimum of 10-foot separation from buildings.
7. Verification that the location can safely accommodate the food truck/mobile food trailer without impacting the traveled way.
8. Displacement of handicapped accessible stalls is prohibited.
9. Food trucks on private property (e.g. parking lot) may also be approved, 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. Notification of surrounding businesses is not required for onsite applications.

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. [NOTE: THE MAXIMUM PARKING DISPLACEMENT HAS BEEN PLACED ON HOLD DURING THE COVID-19 PANDEMIC]

Requirements for Parklets and Streateries



Parklets and streateries convert parking stall(s) and or drive lane(s) to public space, sidewalk cafes or other uses. They typically incorporate landscaping, art, or other amenities.

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

LOCATION

1. Parklets and streateries 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, including corner lots that may have an address on an intersecting street.
4. Use of handicapped accessible stalls is prohibited.
5. The parklet or streatory 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. [NOTE: THE MAXIMUM PARKING DISPLACEMENT HAS BEEN PLACED ON HOLD DURING THE COVID-19 PANDEMIC]

STREATERIES

Table service within a parklet is permitted. However, streateries should be open and welcoming to passersby during non-business hours. If alcohol will be consumed within the streatory, additional endorsements to the liquor license may be required. Contact the Washington State Liquor and Cannabis Board for more information and additional requirements. Alcohol consumption is prohibited within a public parklet.

ACCESS AND REMOVAL

Because parklets and streateries 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 and streateries are reviewed according to the NACTO design guidelines:

<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 or streatory location.

ACCESSIBILITY/ADA COMPLIANCE

Parklets and streateries 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 by the operator.

REGISTERED PLANS FOR MODULAR DESIGNS

Plan sets developed by a licensed engineer for outdoor coverings may be reviewed and registered by the Building Division. Applicants wishing to use a registered plan shall first contact the plan owner and coordinate the construction documents for the proposed site. The applicant should submit the stamped, approved plans with their specific application. The City provides no assurance that the modular design will meet the City's building and Fire codes until a review occurs based on your specific site plan.

REQUIREMENTS FOR COVERINGS/STRUCTURES WITHIN THE RIGHT-OF-WAY

Interim solutions for weather protection of parklets and streateries were permitted during the beginning of the COVID-19 pandemic. Renewal of previously issued permits and approval of new parklets and streateries will be based on compliance with the following requirements:

BUILDING PERMIT REQUIREMENTS:

- Construction or installation of any structure greater than 120 square feet requires a Building Permit. Building Permits for all covered structures will include a Fire Department review line.
- All structures constructed or installed in the public right of way shall be constructed of rigid materials and shall not have the appearance of a temporary tent or tent-like structure.
- Structures with sidewall and overhead elements must be accompanied with wind resistance calculations. In addition, structures shall be properly weighted, anchored, or secured to the ground without penetration (staking, drilling, etc.) into the public parkway, sidewalk, or street. Engineering may be required.
- Any fabric or tent-like material serving as walls or overhead weather protection shall have a manufacturer's fire-resistance certification or flame certification attached to the material element. Spray-on or rolled-on flame-resistance treatments will not be accepted.
- If the structure will have non-fabric overhead weather protection, the overhead material shall be non-combustible (i.e. sheet metal).
- A structure's framework must be sufficient in size, spacing, and strength to accommodate the effects of all anticipated loads. All framing intersection/joints shall be mechanically anchored to one another creating a secure connection. Engineering may be required.
- Structures may not block or impede the main entrances of the business or adjacent businesses and a clear path for egress must be always maintained. Exits shall be apparent.
- All temporary power installations must be code compliant and require an electrical permit. Electrical cords located on public sidewalks and pathways will not be permitted.

VERSION 6

12/1/21

- Accessibility shall be provided into the dining area with an elevation difference no greater ½". If utilized, ramps shall have a slope no greater than 1:12, be slip resistant and maintain a minimum of 36" width between obstructions and/or handrails.
- Parklets and streateries shall not interrupt existing public right of way ADA provisions and/or street drainage. A Public Works final inspection will be performed under the building permit or right-of-way use permit.
- Parklet and streatory structures shall not block or impede the use of fire hydrants or a building's fire department connection.

HEATING ELEMENTS:

- All heating elements shall be listed for the intended use and used/maintained in accordance with manufacturer's instructions.
- Vented, non-portable fuel-fired heaters (propane, natural gas) are prohibited within parklets and streateries. Use within sidewalk cafes will be evaluated on a case-by-case basis.
- Unvented portable fuel-fired heat sources (i.e., propane patio heaters, propane fire tables, infrared propane heaters, etc) shall not be permitted indoors, within any enclosed structure, within 5 feet of a building or exit, or beneath or closer than 5 feet to combustible decorations, overhangs, awnings, sun shades or attachments to buildings.
- Installation of exterior outlets and/or non-portable electric heating equipment is allowable and shall be reviewed under an Electrical Permit obtained from the Building Services Division. Radiant heating installed overhead with conduit is an ideal solution for providing heat. Electric heating equipment shall comply with the National Electrical Code (NFPA 70).
- Portable electric heaters are allowed. Portable heaters shall have a UL or other NRTL listing, over-temperature protection, tip-over switch, and maintain clearances required by the manufacturer, but in no case less than 3 feet from any person or combustible material. The heater shall utilize a single, UL-listed outdoor extension cord rated for the amperage and provided with GFCI protection or be provided with a temporary power supply approved by the Building Services Division. Cords and other power supply elements may not pass-through building openings (windows, doors, etc) or cross the sidewalk and must be installed overhead with a minimum of 8-feet of clearance.

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 (“streatery”), subject to certain conditions.

In addition to the General Requirements above, 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 streatery may be constructed to accommodate the sidewalk café (see specific requirements for parklets and streateries).

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.
- 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 must be approved by the State Liquor Control Board.
 - Maximum lip height is ¼”, or ½” if beveled appropriately; and
 - Any installation should be removable without damaging the sidewalk.

DESIGN /ADA COMPLIANCE

- Sidewalk café covers or structures located within the public right-of-way must comply with the “Coverings and Structures” requirements within the parklet/streatery chapter, above.
- 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):
 - Toe rail with top edge a minimum of 6” in height and bottom edge no higher than 2” above ground surface (Figure 9), or
 - Continuous, firm barrier at 27” or less above the ground (Figure 10), or
 - Landscaped planters at least 30” tall, spaced no more than 24” apart (Figure 12).

VERSION 6
12/1/21

- 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 and easily accessible from any point within the sidewalk café, parklet or treatery.
- All installations shall be easily removable. Bolt-down features with threaded studs protruding from the sidewalk, and other similar permanent features, are not permitted.

FIGURE 9. FENCING DESIGN FOR CANE DETECTABILITY: TOE RAIL

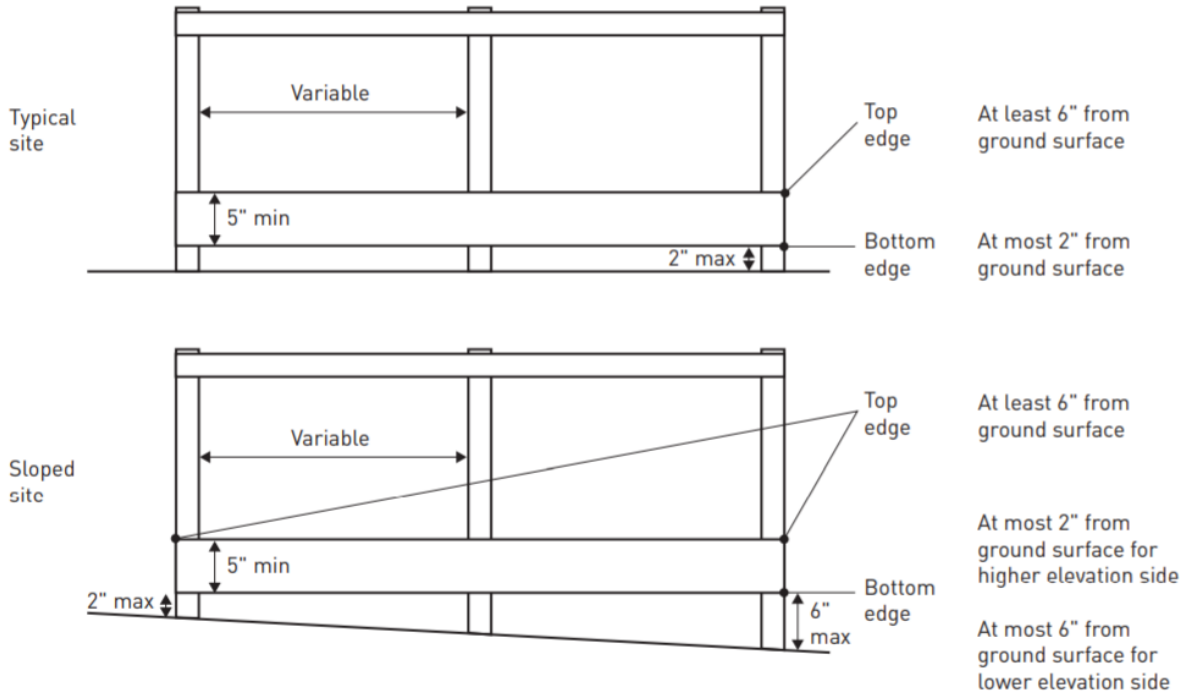
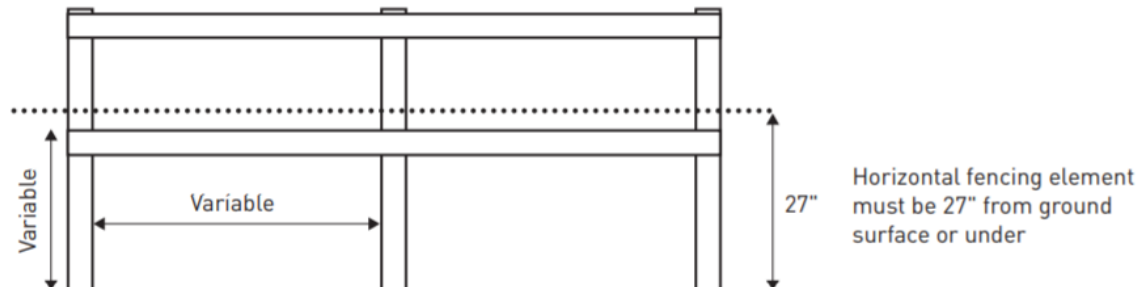


FIGURE 10. FENCING DESIGN FOR CANE DETECTABILITY: 27-INCH TALL RAILING



VERSION 6
12/1/21

FIGURE 11. CANE DETECTABILITY OF OBJECTS PROTRUDING FROM FENCING

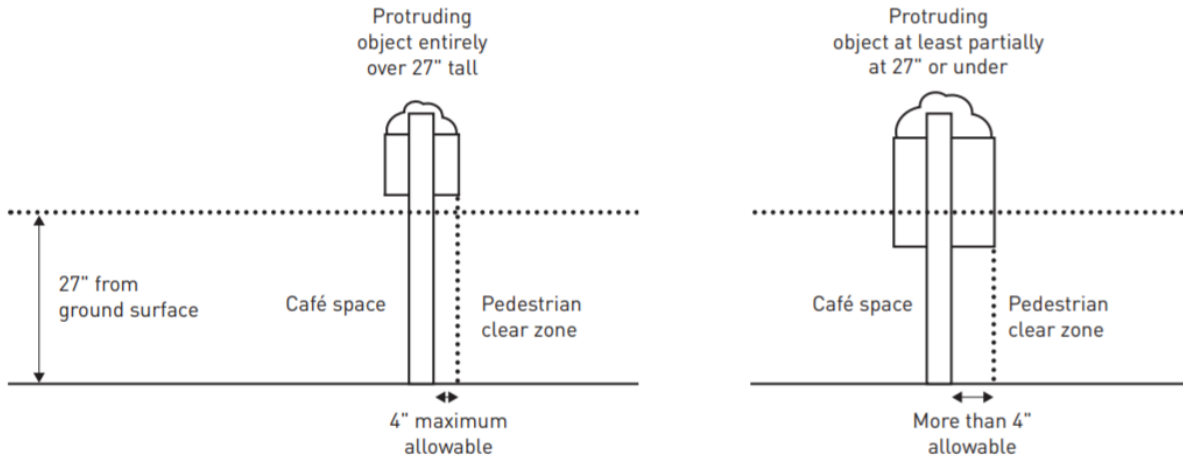
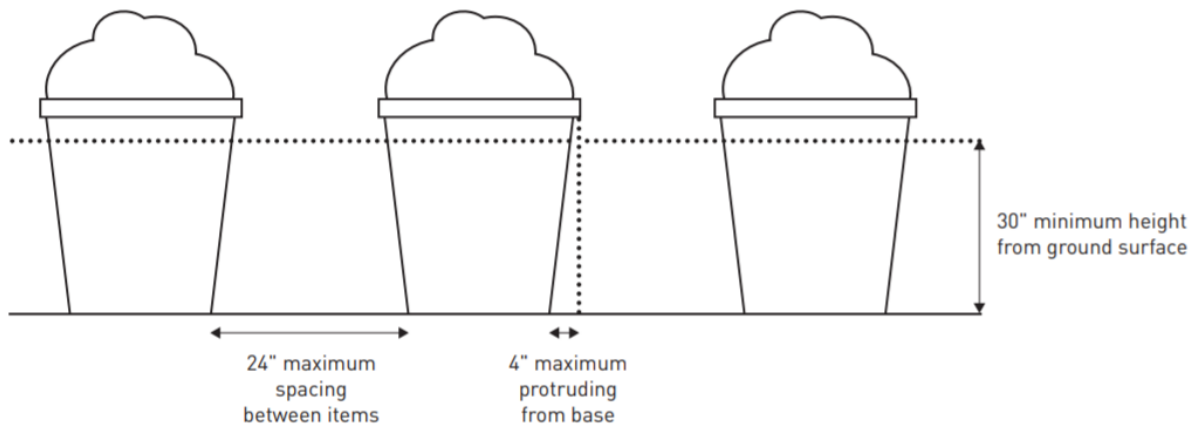


FIGURE 12. PLACEMENT REQUIREMENTS FOR PLANTERS USED IN LIEU OF FENCING



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 and facing block, including corner lots that may have an address on an intersecting street, 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.