

Permit Application for

Temporary Outdoor Dining

Complete this application in its entirety and submit to jessica.herceg@cityofwashougal.us. Review time is 2 business days.

OFFICE USE ONLY	
Date Received:	_____
Application Number	_____
CD Approval	_____
PW Approval	_____
Date Reviewed	_____

1. PROPERTY INFORMATION

Address _____ Parcel # _____

2. OPERATIONAL INFORMATION (please attach separate documents if necessary)

Requested hours of outdoor dining: _____

On site managers, names, and phone numbers: _____

Will alcohol be served on site? _____

Please identify the number of staff, volunteers, and private security you have: _____

3. REQUIRED ATTACHMENTS

- A plan with dimensions showing the layout and arrangement of the proposed outdoor seating area, including its overall dimensions, aisle widths, access to the adjacent building and restrooms, the locations of chairs, tables, umbrellas, barriers, outdoor heating devices, and all other appurtenances to be located within the boundaries of the proposed outdoor seating area; if outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures. **[EXHIBIT A]**
- Please attach a copy of the Capacity Certificate for the establishment. **[EXHIBIT B]** If a Capacity Certificate does not exist or is not available, please call the Building and Fire departments to schedule an inspection to obtain a new Capacity Certificate.
- If requesting a location on City-owned property:** A Certificate of Insurance showing that the City of Washougal and its employees, volunteers, and agents have been named as additional insureds to applicant's Commercial General Liability Insurance and, if applicable, Liquor Liability Insurance. The endorsement showing that the City et al. has been added to the policy is also required. If the policy has additional insured language required by contract, please attach that portion of the policy to the Certificate of insurance. **[EXHIBIT C]**
- If requesting a location on City-owned property:** Please execute the Temporary Outdoor Dining Use Agreement **[EXHIBIT D]**

4. PROPERTY OWNER INFORMATION (an individual or a legal entity may be listed as owner)

Owner's Name _____

Address _____ City _____ State _____ Zip _____

Phone _____ Email _____

5. APPLICANT INFORMATION (if different from owner)

Applicant's Name _____

Address _____ City _____ State _____ Zip _____

Phone _____ Email _____

CERTIFICATION FOR PROPERTY OWNER

"I hereby submit that I am legally authorized to execute this application on behalf of the fee-simple owner of this property. I have read this application and it is submitted with my full knowledge and consent. I authorize city staff and representatives to have access to this property for inspection. The information contained in this application is accurate and correct to the best of my knowledge."

Name of Individual or Legal Entity _____

Signed by:
Name (printed) _____, Title _____

Signature _____ Date _____

CITY OF WASHOUGAL APPROVAL

City Manager/Designee _____ Date _____

TERM OF PERMIT

This Temporary Outdoor Dining Permit was established to address circumstances created by the COVID-19 pandemic and to help reduce the economic hardship to businesses caused by this crisis and encourage businesses to comply fully with public health guidelines. It is valid for a period not to exceed 90 days from full execution by the City, unless extended in writing by the City; or 30 days from the date that the restrictions pertaining to restaurant operations contained within Governor Inslee's Executive Orders, as amended, are lifted, whichever occurs sooner.

TERMINATION

The City of Washougal reserves the right to terminate or temporarily suspend this Temporary Outdoor Dining Permit at any time, for any reason, including but not limited to noncompliance with the terms and conditions of the permit, or the use threatens the public health, safety, and welfare, such as storm events, crowds in excess of permitted capacity, construction, and modifications to the Statewide Declaration of Public Health Emergency.

Referenced Materials:

City of Washougal TOD Design Standards

<https://www.cityofwashougal.us/DocumentCenter/View/1401/City-of-Washougal-TOD-Design-Standards>

Chapter 18 of the Zoning Ordinance:

<https://www.codepublishing.com/WA/Washougal/#!/Washougal18/Washougal18.html>

CONDITIONS OF TEMPORARY OUTDOOR DINING PERMIT

1. Temporary outdoor dining area:
 - a. Must be located directly adjacent to the establishment, or a location within 100' of the establishment;
 - b. Fencing/barriers must comply with the City of Washougal TOD Design Standards;
 - c. Emergency access to all adjacent structures must be maintained at all times;
 - d. Any modification to the approved plan [Exhibit A] must be submitted and approved;
 - e. The proposed dining operation and location shall maintain 48" for pedestrian access and will not significantly interfere with the pedestrian traffic or otherwise constitute a health and safety risk;
 - f. 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. All furniture must comply with City of Washougal TOD Design Standards;
 - g. Alcohol is prohibited to be served in the TOD unless approved by the Washington State Liquor and Cannabis Board.
2. Must comply with all applicable Governor's Orders, as amended, including, but not limited to:
 - a. Depending on the phase of the Governor's Orders, establishments must limit occupancy of both the establishment and the outdoor dining area to 50% (Phase II), or 75% (Phase III), of the lowest occupancy load on the certificate of occupancy;
 - b. No more than five patrons may be seated as a party;
 - c. Tables at which dining parties are seated must be positioned six feet apart from other tables.
3. A copy of this permit must be kept on site at all times and a copy of the capacity certificate must be on display at all times.
4. All signage must comply with Chapter 18 of the City of Washougal's Zoning Ordinance.
5. Hours of operation shall be limited to one hour after sunrise to one hour before sunset unless otherwise specifically approved by the City.
6. No other uses are permitted within the Temporary Outdoor Dining Area; including, but not limited to, live entertainment and retail sales.
7. No pets are permitted in Temporary Outdoor Dining Areas, except service animals.
8. No open flames, cooking or food prep is permitted in Temporary Outdoor Dining Areas
9. Businesses are responsible for property disposing of all trash in approved private refuse containers.
10. Revocation
 - a. Any encroachment onto City property granted by this permit shall be revocable at the pleasure of the City.
 - b. The City Manager or their designee shall have the authority to revoke an approved Temporary Outdoor Dining Permit if any of the following occurs:
 - i. The applicant has misrepresented facts or provided false information in the temporary outdoor dining permit application;
 - ii. The outdoor seating area is operated in violation of the terms or conditions of the outdoor seating permit, City of Washougal TOD Design Standards, or the encroachment agreement;
 - iii. The outdoor seating area or the establishment is operated in violation of the zoning ordinance, city code, or other applicable federal, state or local law;
 - iv. The outdoor seating 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;
 - v. The director of public works determines that there is a public need relative to the portion of the sidewalk or street occupied by or otherwise affected by the outdoor seating, including but not limited to work in the sidewalk area.

Signature of Applicant _____ Date _____

Addendum for temporary outdoor dining on City Rights of Way and City Property.

Business Address: _____
Business Name: _____

TEMPORARY OUTDOOR SEATING USE AGREEMENT

THIS TEMPORARY OUTDOOR SEATING USE AGREEMENT (the "Agreement"), is made as of the date it is signed by the Washougal City Manager or her designee (the "Effective Date"), by and between the CITY OF WASHOUGAL, WASHINGTON, a municipal corporation (the "City") and _____ (the "Business") (collectively, the "Parties").

WHEREAS, the City is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas (the "Property"), as shown on **EXHIBIT A – LICENSED AREA** attached hereto;

WHEREAS, due to the COVID-19 pandemic, indoor dining service for Business has been prohibited or limited by Executive Orders of Governor Inslee; and

WHEREAS, the Parties desire to allow the Business to enter upon the Property for the purpose of outdoor seating and dining in conjunction with the Business during the Term, as defined herein.

NOW, THEREFORE, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Right of Entry. The City hereby grants a temporary Right of Entry to the Business over the Property, subject to the terms and conditions of this Agreement (the "Right of Entry"). No assignment of the Right of Entry shall be permitted without written consent of the City.
2. Use of the Property. Business shall use the Property solely to provide table seating for dining and/or beverage consumption in accordance with all applicable terms and conditions of the attached **TEMPORARY OUTDOOR DINING PERMIT**. The City and the City's authorized representatives may, at any time, enter upon the Property for the purpose of making inspections and verifying compliance with all applicable federal, state, and local law.
3. Term of the Agreement & Suspension/Revocation. This Agreement is valid for a period not to exceed 90 days from full execution by the City, unless extended in writing by the City; or 30 days from the date that the restrictions pertaining to restaurant operations contained within Governor Inslee's Executive Orders, as amended, are lifted, whichever occurs sooner (the "Term").
4. Condition of the Property. Upon the end of the Term, the Business shall withdraw its agents and invitees from the Property and cease any further temporary use of the Property. The Business shall restore the Property to substantially the same condition as it was prior to entry, free of trash, material, equipment, and debris.
5. Liability, Indemnity, and Claims. The Permittee shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with activities or operations performed by the Permittee or on the Permittee's behalf out of issuance of this Permit, except for injuries and damages caused by the sole negligence of the City.
6. Applicable Law. This Agreement shall be deemed to be a Washington contract and shall be governed by the laws of Washington State. All suits for any claims or for any breach or dispute arising out of this Agreement may be brought in the appropriate court of competent jurisdiction in a state or federal court of competent jurisdiction located in the City of Washougal, Washington or the United States District Court for the Western District of Washington.

7. Insurance.

A. Insurance Term

The Permittee shall procure and maintain for the duration of the Permit, insurance against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the Permittee's behalf with the issuance of this Permit.

B. No Limitation

Permittee's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Permittee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

- i. Applicant shall obtain insurance of the types and coverage described below:
- ii. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Permittee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.
- iii. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

D. Minimum Amounts of Insurance

- i. Permittee shall maintain the following insurance limits:
- ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- iii. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

E. Other Insurance Provision

The Permittee's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Applicant's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage

Permittee shall furnish the City with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the Permittee before issuance of the Permit.

H. Notice of Cancellation

The Permittee shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.

I. Failure to Maintain Insurance

Failure on the part of the Permittee to maintain the insurance as required shall constitute a material breach of the Permit, upon which the City may, after giving five business days' notice to the Permittee to correct the breach, immediately terminate the Permitter

J. City Full Availability of Applicant Limits

If the Permittee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Permittee, irrespective of whether such limits maintained by the Permittee are greater than those required by this Permit or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Permittee.

8. Termination of Agreement. The City of Washougal reserves the right to terminate or temporarily suspend this Temporary Outdoor Dining Permit at any time, for any reason, including but not limited to noncompliance with the terms and conditions of the permit, or the use threatens the public health, safety, and welfare, such as storm events, crowds in excess of permitted capacity, construction, and modifications to the Statewide Declaration of Public Health Emergency.

9. Business agrees that Washougal Police Department ("WPD") officers will retain the authority to enforce criminal violations, including trespass at the Property. Any persons who are not permitted upon this Property for legitimate purposes or business patronage, and/or are violating any law, including any executive order, are trespassing. Business authorizes any officer of the WPD to ask any such person to leave the property and ban them from further admittance. Business agrees to support prosecution of any trespassers and will appear in court to testify if necessary.

10. Use of the term "City" in this Agreement shall be interpreted to include the City, its agents, officers, employees, and invitees.

11. This Agreement shall not be amended, changed, modified, waived or discharged in whole or in part except by written agreement of the Parties.

WITNESS the following signatures and seals:

BUSINESS:

By: _____

Its: _____

CITY OF WASHOUGAL:

By: _____
City Manager / Authorized Designee

Date: _____