

City of  
Aberdeen



Community Development Department  
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## PERMISSIVE USE PERMIT APPLICATION

Sidewalk Sale     Sandwich Board/Sign     Sidewalk Café     Other

**Chapter 12.04.010 Permissive Use of Public Property-Right of Way-Other Property.** The City Engineer may grant permission of the use of street right-of-way under the jurisdiction of the City of Aberdeen subject to such terms and conditions as set out herein. The city council may grant permission for the use of other city property on such terms as it deems appropriate.

### APPLICANT INFORMATION:

Name and Address of Applicant:

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Daytime Phone Number: (\_\_\_\_) \_\_\_\_\_

### NATURE OF REQUEST:

(A) Legal Description of Adjacent Property (from deed):

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(B) Location of Right-of-Way:

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(C) Intended Use (Provide sketch showing location and dimensions.):

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**PROOF OF INSURANCE:** Before a Permissive Use Permit is granted for commercial property, the applicant shall, at its sole expense, provide (a copy to the City of Aberdeen) and maintain a policy of comprehensive public liability insurance. The insurance shall be in the minimum amount of \$100,000 per occurrence. The policy shall name the City of Aberdeen as an additional insured.



**Chapter 12.04.010 Permissive Use of Public Property – Right – of – Way – Other Property.** The City Engineer may grant permission for the use of street right-of-way under the jurisdiction of the City of Aberdeen subject to such terms and conditions as set out herein. The city council may grant permission for the use of other city property on such terms as it deems appropriate.

**Chapter 12.04.020 Commercial use of public right of way.** The city engineer may grant a permissive use permit for the commercial use of public right-of-way subject to the following conditions:

- (A) Commercial uses, such as customer parking, landscaping, fencing, sidewalk sales, and customer use will not be required to pay an annual fee for the use of city right-of-way. Permits for sidewalk sales shall only be issued for the downtown commercial district and shall limit the sales to two (2) consecutive days each seven day period.
- (B) Commercial uses establishing a permanent structure, such as a building, carport, or garage, where vacation of the right-of-way is not recommended by the city engineer, shall pay an application fee and an additional annual fee set by city council resolution. The city engineer may waive the annual fee for using unimproved right-of-way that has not been opened for public travel where the permitted use does not interfere with actual or future use of the right-of-way.
- (C) An individual requesting a permissive use permit for a commercial purpose shall provide proof that they have liability insurance for and are the owner or occupant of the property abutting that portion of the city right-of-way for which the request is made, prior to issuance of the permit. A permissive use permit shall not be issued for private driveways on unimproved or unopened right-of-way without the written permission of the underlying property owners of the right-of-way to be used by the applicant.
- (D) All uses contrary to the terms and conditions of the permit shall result in automatic termination of the permit.
- (E) In the event the city or its franchise holders require use of this area to install, repair, renew or to maintain any utilities, or for any other purpose, the applicant shall, at his expense, remove any improvements which he may have placed on the property, all at his expense; provided, that if the applicant does not comply with the city's direction in this regard promptly, the city may remove improvements and charge the applicant for any expenses incurred by the city in so doing.
- (F) The permit shall remain in force and effect until a breach of any of the conditions of the permit or the city may cancel the permit on proper notice to the permit holder if the city determines that the property is to be used for another purpose. The city shall retain the absolute right to terminate the permit upon proper notice to the permit holder. The city shall promptly notify the permit holder of any termination of the permit and the permit holder shall within thirty (30) days remove all improvements for the area and terminate his use of that area and restore the area to a condition equal to or better than existed at the time of granting the permit.
- (G) The applicant agrees to protect and save harmless the City of Aberdeen from all claims, actions or liabilities to third persons by reason of the use of the property by the permit holders; and in case any suit or action is brought against the City of Aberdeen for damages arising out of or by reason of the use, the applicant shall, upon notice to him of the commencement after any such suit or action shall have been finally determined if adverse to the City of Aberdeen.
- (H) The city council by resolution may adopt permit fees, approve variances from the above standards, grant an application denied by the city engineer and modify or revoke a permit issued by the city engineer.

**12.04.030 Residential use of public right of way.** The city engineer may grant a permissive use permit for a residential use subject to the following terms and conditions:

- (A) Residential uses, such as landscaping, fencing and retaining walls and bulkheads installed for the purpose of protecting property, will not be required to pay an annual fee for use of city right-of-way.
- (B) Residential uses establishing a permanent structure, such as a building, carport, or a garage, where vacation of the right-of-way is not recommended by the city engineer, shall pay an application fee and an additional annual fee as set by city council resolution. The city engineer may waive annual fees for unimproved right-of-way that has not been opened to public travel where the permitted use does not interfere with actual or future public use of the right-of-way.
- (C) An individual requesting a permissive use permit for a residential purpose shall provide proof that they have liability insurance for and are the owner or occupant of the property abutting that portion of the city right-of-way for which the request is made, prior to issuance of the permit. A permissive use permit shall not be issued for private driveways on unimproved or unopened right-of-way without the written permission of the underlying property owners of the right-of-way to be used by the applicant.
- (D) Upon termination of ownership or control of the property adjacent to the city right-of-way for which the permit was issued, all rights granted by the permit shall automatically terminate.
- (E) All uses contrary to the terms and conditions of the permit shall result in automatic termination of the permit.
- (F) In the event the city or its franchise holders require use of this area to install, repair, renew or to maintain any utilities, or for any other purpose, the applicant shall at his expense, remove any improvements which he may have placed on the property, all at his expense; provided that if the applicant does not comply with the city's direction in the regard promptly, the city may remove the improvements and charge the applicant for any expenses incurred by the city in so doing.
- (G) The permit shall remain in force and effect until a breach of any of the conditions of the permit or the city may cancel the permit on proper notice to the permit holder if the city determines that the property is to be used for another purpose. The city shall retain the absolute right to terminate the permit upon property notice to the permit holder. The city shall promptly notify the permit holder of any termination of the permit and the permit holder shall within thirty (30) days remove all improvements from the area and terminate his use of that area and restore the area to a condition equal to or better than existed at the time of granting the permit.
- (H) The applicant agrees to protect and save harmless the City of Aberdeen from all claims, actions or liabilities to third persons by reason of the sue of the property by the permit holders; and in case any suit is brought against the City of Aberdeen for damages arising out of or by reason of the sue, the applicant shall upon notice to him of the commencement of the action, defend the same at his own expense and will satisfy any judgment after any such suite or action shall have been finally determined if adverse to the City of Aberdeen.
- (I) The city council by resolution may adopt permit fees, approve variances from the above standards, grant an application denied by the city engineer, and modify or revoke a permit issued by the city engineer.

**12.42.010 Permit Required.** It shall be unlawful to operate a sidewalk café without a written permit to do so from the Director of Public Works, or his or her

designee, as provided in this chapter. A sidewalk café permitted under this chapter is not required to also obtain a permissive use permit under chapter 12.04 AMC.

**12.42.020 Permit Application.** An application for a sidewalk café permit shall be made on the Permissive Use Permit Application. In addition to information required by AMC 12.42.040, the applicant shall state the anticipated periods of use during the year, and the proposed hours of daily use, including Saturdays, Sundays and holidays; and whether an liquor, as defined in RCW 66.04.010(6), will be sold or consumed in the area to be covered by the permit.

**12.42.030 Notification of Surrounding Tenants and Owners.** The Director shall provide notice of receipt of an application for sidewalk café permit and of his decision to grant, deny, or condition the permit to the owner's of record and the occupants of real property fronting on both sides of the same street block as the proposed sidewalk café.

**14.42.040 Terms and Conditions.**

- (A) The Director may issue a permit for use of a sidewalk for sidewalk café purposed in the event and to the extent that he or she determines that:
  - 1. The applicant is the owner or occupant of the adjacent property and operates a café, restaurant, or tavern thereon;
  - 2. The proposed use for a sidewalk café would not unduly and unreasonably impair passage to and fro by the public on the sidewalk for which the permit is sought and is consistent with any applicable standards established by the Federal Americans with Disabilities Act;
  - 3. The proposed sidewalk café area is included within a food-service establishment permitted by the city and authorized by the Grays Harbor County Department of Health.
- (B) The Director may include in the permit such terms and conditions as the Director may deem appropriate including, but not limited to:
  - 1. Restrictions as to the number and placement of tables and chairs and as to the hours and dates of use;
  - 2. A requirement that the area be cleared when not in use as a sidewalk café, or upon the order of the City Engineer or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;
  - 3. Provisions that the applicant shall maintain the sidewalk in a clean and safe condition for pedestrian travel;
  - 4. A requirement that the applicant clear the sidewalk as may be necessary to accommodate deliveries to adjacent or other nearby properties;
  - 5. Regulations upon lighting and illumination of the sidewalk café; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk café;
  - 6. The posting of a surety bond or establishment of an escrow account in accordance with the provisions of this title;
  - 7. If the sidewalk café causes a change in pedestrian travel patterns, appropriate repairs to the sidewalk in the immediate vicinity in order to accommodate the change or to assure compliance with the Federal Americans with Disabilities Act;
  - 8. Restoration of the sidewalk upon completion of the use.
- (C) Unless expressly authorized by the City no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind shall be installed in or on sidewalk area in connection with a sidewalk café.
- (D) The Director may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.

**12.42.050 Liquor.** It shall be unlawful to serve liquor, as defined in RCW 66.04.010(16), as now existing or hereinafter amended, at a sidewalk café unless authorized in both the permit issued under this chapter and by permit of the Washington State Liquor Control Board.

**12.42.060 Insurance.** An applicant for a permit for a sidewalk café shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director sufficient to cover potential claims of bodily injury, death, or disability and for property damage, which may arise from or be related to the use of sidewalk area for sidewalk café purposes, naming the City an additional insured.

**12.42.070 Indemnity.** The applicant for a sidewalk café permit shall execute and deliver to the City, on the Permissive Use Permit Application, an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk café. In addition such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous of unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the sidewalk café furniture ordered removed. Every such agreement shall be filed with the Finance Department.

**12.42.080 Sidewalk Condition.** The applicant shall comply with the terms and conditions of the sidewalk café permit issued, and shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

**12.44.040 Obstruction of Street or Sidewalk Prohibited.** No person shall place or cause to be placed or keep or suffer to remain, any article in any street or on any sidewalk for the city, so as to obstruct the free use and passage thereof without first obtaining a permit from the city. This section shall not be construed to prohibit merchants or others, from placing goods, wares and merchandise, household furniture and other commodities, on the sidewalk for the purpose of loading or unloading, providing the same be removed without unreasonable delay.

**15.44.050 Portable and Temporary Signs – Sandwich Boards – Prohibited Locations.** There will be no sandwich board, portable or temporary sign secured to a parking meter, fire hydrant, utility pole, light pole, city or state sign pole, tree, transit authority benches or other structures without the consent of the public agency owning the structure; nor shall any sandwich board or portable sign be located within three feet of any fire hydrant, fire department connection, or fire protection system control valve, or on corners.

**15.44.070 Signs on right-of-way.** No Sandwich board, portable or temporary sign shall be placed on or over a public sidewalk or right-of-way except under the following circumstances:

- (A) A valid right-of-way sign permit has been issued by the city engineer for the sandwich board or sign under this chapter.
- (B) Unless a conditional use permit have been granted under the Aberdeen zoning ordinance, the sandwich board or sign must be located on property abutting the business advertised or, if no business is advertised, upon property abutting the permit holder's premises;

- (C) The portable or temporary sign must be located in a commercial zoning district. Sandwich boards may be used in commercial, industrial, or major institutional zoning districts;
- (D) No sandwich board or sign may be located on or over any portion of any sidewalk which is less than six feet in width.
- (E) No sign can cover more than twenty-five (25) percent of the unobstructed width of a sidewalk and all signs located on city sidewalks, other than sandwich boards, shall be the edge nearest to the property line six inches or less from the back edge of the sidewalk;
- (F) Except for sandwich boards located on sidewalks, all signs shall be at least six feet from the improved street;
- (G) No temporary or portable sign shall be greater than forty-eight (48) inches in width or sixty (60) inches in height, nor shall any sign have a total combined advertising area exceeding forty (40) square feet on all surfaces. No temporary or portable sign shall have any moving parts. All glazing, other than electrical lights, must meet Uniform Building Code Standard No., 54-2 for safety glass;
- (H) Sandwich boards may only be placed on sidewalks during business hours and shall be removed daily at the close of business. The edge of the sandwich board shall be no closer to the curb or edge of roadway than twenty (20) inches and no further than twenty-four (24) inches. Sandwich boards shall be located in front of the business being advertised and not on corners or pedestrian bulb-outs.

**15.44.080 Right-of Way Sign Permits.** The city engineer may issue right-of-way sign permits subject to the following conditions:

- (A) The applicant is the owner or lessee of the property immediately adjacent to the right-of-way area where the sign is to be displayed;
- (B) The applicant agrees to follow the terms of this chapter and any special conditions the city engineer determines are necessary for pedestrian or vehicle safety or the property maintenance and operation of public improvements;
- (C) The applicant shall its sole expense provide and maintain a policy of comprehensive public liability insurance including the sign and the right-of-way in which the sign is to be displayed. The insurance shall be in the minimum amount of one-hundred thousand dollars (\$100,000.00) per occurrence. The policy shall name the City of Aberdeen as an additional insured and shall contain a clause that the insurer will not cancel or change insurance without first giving the city thirty (30) days prior written notice. The permittee must immediately notify the city if the insurance is terminated or expires and must remove the sign from the right-of-way;
- (D) The applicant agrees to protect and save harmless the City of Aberdeen from all claims, actions or liabilities to third persons by reason of the use of the property by the permit holders; and in case any suit or action is brought against the City of Aberdeen for damages arising out of or by reason of the use, the applicant shall, upon notice to him of the commencement after any such suit or action shall have been finally determined if adverse to the City of Aberdeen;
- (E) The city council by resolution may adopt permit fees, approve variances from the above standards, grant an application denied by the city engineer and modify or revoke a permit issued by the city engineer.

**17.56.035 Sidewalk Sales.** Outdoor sales on public right-of-way are permitted in the downtown commercial district subject to issuance of a permissive use permit under Chapter 12.04 AMC.

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Signature

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Date