



SIDEWALK DINING PERMIT

City of Ferndale Community Development Department
2095 Main Street/ PO Box 936
Ferndale, WA 98248 (360) 685-2368
www.cityofferndale.org

Welcome!

This packet contains all of the information you need to understand and apply for a Sidewalk Dining Permit. Please read the contents before you start the application process. If you have any questions, please call the Planning Department at 360-685-2368.

What is a Sidewalk Dining Permit?

A Sidewalk Dining Permit allows the holder of the permit to place tables and chairs within the sidewalk area adjacent to a business for use by patrons to whom the business has provided food or beverage, per City of Ferndale FMC 12.22.050 (B).

The permit requires that the Sidewalk Dining operator ensure that their Sidewalk Dining meets site and other regulations as set by the City of Ferndale.

Who is the Sidewalk Dining Permit issued to and where can it be used?

The Sidewalk Dining Permit is issued to an individual, the Permittee, for use by the single business and location named in the application. The Permittee is often the owner of the business. The permit is personal to them and cannot be transferred in any manner, nor can the permit be used for another business or location.

Who is responsible for Sidewalk Dining operations?

The Permittee bears ultimate responsibility for the operations of the Sidewalk Dining. It is the Permittee's responsibility to inform any Responsible Party of Sidewalk Dining permit requirements.

Violations of the Sidewalk Dining permit and policy can result in a notice to abate the nuisance within 24 hours of receipt of notice. If violations continue to occur, the permit may be revoked or the equipment removed at the Permittee's expense, per FMC 12.22.070.

How much does the Sidewalk Dining Permit cost?

The fee for a Sidewalk Dining permit is pursuant to the City's fee code which is payable at time of permit issuance. This is an annual permit and must be renewed with the fee paid each year the permit is requested for.



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Do I need liability insurance for a Sidewalk Dining Permit?

Before a Sidewalk Dining permit can be issued, you must provide the City with evidence of your business' liability insurance. The insurance must remain current as long as you have a permit and will need to meet the City's requirements. The applicant, prior to issuance of such a permit, shall provide and maintain in full force and effect while the permit is in effect, public liability insurance in the amount of \$1,000,000 to cover potential claims for bodily injury, death or disability and for property damage which may arise from or be related to the use of sidewalk area for sidewalk dining purposes, naming the City of Ferndale as an additional insured. The City shall be notified 30 days in advance of cancellation or expiration of said insurance.

Hold Harmless Agreement

The applicant shall execute a Hold Harmless Agreement with the legal entity name and UBI number listed on the agreement. This form is included in this packet.

When is a Sidewalk Dining Permit valid?

Sidewalk Dining Permits are issued on an annual basis. They are valid upon issuance and expire December 31st of the year issued, unless revoked earlier.

Sidewalk Dining operations are allowed during any hours that the business is open and operating.

Where can my sidewalk dining be located?

Sidewalk dining will only be allowed where:

- A minimum of 48 inches of unobstructed pedestrian clearance can be provided when the sidewalk dining facility is put in place.
- The area is adjacent to the business
- The area is within the City Center Zone.

Sidewalk Dining operations are confined to a space that is outside of the 48" pedestrian clear zone. All operations, furniture, and other obstructions must be outside of the pedestrian clear zone, and cannot obstruct the vision or passage of pedestrians or motorists.

The area reserved for pedestrian travel is referred to as the Pedestrian Clear Zone. This area must be free of all roadway side features (trees, tree wells, bike racks, lights, fire hydrants, etc.). Obstructions such as awnings are allowed to extend into the Pedestrian Clear Zone, including the outdoor dining area, only when all parts of the awning are above a height of 8 feet.



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What types of furniture can I place in the Area of Operation?

In additions to tables and chairs or other seating, a Sidewalk Dining Permit allows the placement of furniture and other items within the Area of Operation that are pertinent to the operation of the associated business. This includes items such as umbrellas, planters, and bussing carts. All items are subject to approval by the City.

Do I ever need to remove my furniture?

Storage of materials on the sidewalk is prohibited. For Sidewalk Dining this means that you need to remove all furniture and any other obstructions that are permitted by your Sidewalk Dining Permit at the close of business each day, this includes the potential for removal without noticing during emergencies.

Unless specifically provided for in your permit, all outdoor furniture must be removed from the public right of way at the close of business each day.

Am I allowed to secure my furniture?

The applicant must demonstrate that all proposed tables, chairs, barriers or other equipment and materials associated with the sidewalk dining facility are temporary in nature. The applicant shall be required to demonstrate that all such items can and will be removed from the public right of way each day at the close of business.

What if I want to change who the Permittee is?

The permit is personal to the Permittee to whom it was issued and cannot be transferred to others. Any new Permittee must apply for a new Sidewalk Dining Permit.

What if I am a new owner of a business that previously had a Sidewalk Dining Permit and would like to have one issued?

If you are a new owner of a business that previously had a Sidewalk Dining Permit and would like to have one issued, you will need to apply for a Sidewalk Dining Permit; the permit is personal to the Permittee to whom it was issued and cannot be transferred to others.

If the Sidewalk Dining marks have been removed from the sidewalk dining facility or you want to adjust the size of the Area of Operation, the application and permitting process will be identical to that for any other new Sidewalk Dining.

If the scope of changes proposed to the Sidewalk Dining Permit are limited to transferring responsibility from one person to another, or changing the name of the business, the City shall waive the Sidewalk Dining permit fee and shall require only a new business license.



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Is there anything else I should consider?

Your Sidewalk Dining must make accommodations for customers who are on the sidewalk and waiting or in line for your business. The location and configuration of your sidewalk dining facility cannot be such that it encourages waiting or in line customers to obstruct the Pedestrian Clear Zone. You may be required to provide a location for waiting or in line customers that is on private property or that is incorporated into your sidewalk dining facility.

All food must be prepared within your building; cooking and preparation of food within the sidewalk area is prohibited. Before purchasing your Sidewalk Dining furniture, consider the accessibility of your furniture and design to those with disabilities, wheelchairs, or mobility devices.

State of Washington law prohibits smoking within 25' of public places or places of employment, RCW 70.160.075. This applies to both your building and any neighboring buildings. The Sidewalk Dining permit does not allow for smoking in these areas.

The sale of liquor in the State of Washington requires that your business have a Liquor License. If you wish to sell alcohol to customers to be consumed when using your Sidewalk Dining area, you will need to apply for Added Activities for Beer/Wine restaurant for your Liquor License. Contact the Washington State Liquor Control Board at 360-664-1600 or www.Liq.wa.gov.

What Types of Sidewalk Dining Furniture is Allowed?

In general, sidewalk dining furniture is limited to tables, chairs, barriers and other furniture that can be efficiently moved off of the sidewalk and stored at the close of business each day. Flashing lights, large signs, and stereo speakers are discouraged and may be prohibited, depending upon their size and location. You may not utilize existing furniture or infrastructure to support your sidewalk dining facility.

The design of the sidewalk dining furniture is also important: the City has established clear design guidelines for building construction, and sidewalk dining furniture must not detract from these design standards. This does not mean that sidewalk dining furniture must utilize expensive materials. Instead, the furniture must be in good condition, and should complement or enhance the architecture of the nearby buildings. Essentially, the furniture should not look as if it has been salvaged from storage or from the property owner's back yard.



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How do I apply for a Sidewalk Dining Permit and what should I do first?

Before you apply for a Sidewalk Dining Permit, review all of the information in this packet. Look at the area that you plan to use and assess if it will meet the requirements of the Sidewalk Dining program. Make a plan for how you intend to use the area.

All of the materials you need to start your application are included in the following pages of this packet.

Feel free to contact the Planning Department at City Hall if you need to discuss your plans or have any questions, 360-685-2368.



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Information required with application:

- Concept drawing of sidewalk dining and layout plan, including examples of proposed sidewalk furniture
- Copy of Ferndale City Business License
- Copy of Whatcom County Health Department approval
- Copy of Approval from Washington State Liquor Control Board (if applicable)
- Proposed Maintenance Plan – see FMC 12.22.050(5).
- Completed Sidewalk Dining Permit Application
- Proof of insurance – see FMC 12.22.060
- Hold Harmless Agreement (form attached)
- Notification of adjacent businesses

Applicant Name: _____ phone _____

Email _____ cell _____

Mailing address: _____

Business Information – Name and location of business that will use permit

Business Name _____ phone _____

Legal Entity Name _____

Business Address _____

Business Owner _____ phone _____

Property Owner _____ phone _____

Email: _____ cell _____

Operations Plan

Total square feet of public right of way to be used: _____

Length and width along sidewalk: _____ Proposed seating capacity: _____

Hours of operation: _____ Days of Operation: _____

I certify that the information contained in this application and any other materials submitted in the course of my application for a Sidewalk Dining Permit is true to the best of my knowledge. I agree to comply with all City Ordinances, Policies and State Laws regulating activities covered by this permit

Signature

Date



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Signature Form for Notification of Sidewalk Dining

Name of the business operating the sidewalk cafe: _____

Address of the business: _____

Contact person name and phone number: _____

The above listed are proposing sidewalk dining adjacent to their business.

Hours of operation: between _____ and _____

Days of operation: _____

By signing below, we, the abutting residents and/or business representatives adjacent to the proposed sidewalk dining acknowledge notification of the proposal.

Printed Name	Signature	Address	Phone

Attach additional page if necessary



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In the space below, provide a drawing of your Sidewalk Dining concept.

Include the entire sidewalk area adjacent to your business, showing all features and obstructions on the sidewalk and street names. Indicate the area(s) you plan to use as your Area of Operation and the distance between your sidewalk dining facility and the distance between your sidewalk dining facility and any existing sidewalk features or obstructions within 10 feet.

This drawing will allow City staff to familiarize themselves with your concept before scheduling a site visit.

A large, empty rectangular box with a thin black border, intended for the applicant to draw their sidewalk dining concept. The box occupies the lower half of the page.

Upon recording, please return to:

City of Ferndale
P.O. Box 936
Ferndale, Washington 98248

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT FOR SIDEWALK DINING

GRANTOR:		(Applicant)
GRANTEE:	THE CITY OF FERNDALE	
LEGAL DESCRIPTION (Abbreviated):		
	(For full legal see Exhibit A, Page ____)	
PARCEL NUMBER(S):		
RELATED DOCUMENT	N/A	

This Hold Harmless and Indemnification Agreement for Sidewalk Dining (Agreement) is made this _____ day of _____, 20__, between the CITY OF FERNDALE, a municipal corporation of the State of Washington, 2095 Main Street, P.O. Box 936, Ferndale, Washington 98248, Washington (City) and _____, UBI # _____ (Applicant), located at _____, Ferndale, Washington 98248 and within and upon the real property which is legally described on Exhibit A attached hereto and incorporated herein by this reference.

For and in consideration of being granted a permit to establish and operate an outdoor dining area on sidewalk(s) within the City's Downtown core (Sidewalk Dining) pursuant to the policies and procedures set forth by the City, the Applicant agrees and covenants as follows:

Applicant shall hold harmless, save and indemnify the City and its elected or appointed officials, members, employees and agents (collectively Agents) from all liability, losses and damages of any kind resulting directly or indirectly from the actions or omissions of the Applicant or Applicant's agents, employees, subcontractors, guests and/or invitees, except losses and damages resulting solely from the negligent acts of the City or its Agents. This indemnification includes but is not limited to claims, legal proceedings or judgments, and attorney fees and legal costs, arising out of claims or proceedings (whether by Applicant's Agents or guests and/or invitees, or by any other persons or parties including without limitation members of the public) for bodily injuries, deaths and emotional claims or property damages of any kind, including tangible and intangible property and loss of use. Applicant waives immunity under the Industrial Insurance Act and assumes all liability for actions by the Applicant or its agents against the City.

If the City is involved in any action on an indemnified claim, Applicant shall appear and defend the City at Applicant's expense (using counsel satisfactory to the City), and will pay any and all judgments in such an action. The City will give Applicant prompt notice of any indemnified action and cooperate in the defense. Applicant will give the City immediate notice of any action related to sidewalk dining, provide the City with all information regarding the action, and cooperate with the City on the defense.

Applicant shall maintain liability insurance while the Sidewalk Dining permit is in effect, with minimum limits of \$1,000,000 per occurrence for bodily injury and property damage, naming the City as an additional insured and requiring prior notice to the City prior to cancellation, and shall provide the City with proof of insurance upon demand. Said insurance shall be primary and noncontributory with any other insurance for which the City is a named insured.

EXECUTED this _____ day of _____, 20____ for APPLICANT:

Signature

By: _____
Print Name

Print Title

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____
_____ is the person who appeared before me, and said person
acknowledged that they signed this instrument, on oath stated that they were was
authorized to execute the instrument, and acknowledged it as the
_____ of the Applicant to be the free and voluntary act of such party
for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 20_____.

PRINTED NAME: _____
Notary Public in and for the State of
Washington, residing at _____
My Commission Expires _____

EXECUTED this _____ day of _____, 20____ for the CITY OF FERNDALE:

Mayor

Approved as to Form:

Department Head

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Mayor of the City of Ferndale to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 20_____.

PRINTED NAME: _____
Notary Public in and for the State of
Washington, residing at _____
My Commission Expires _____