

September 16, 2022

MEMORANDUM

To: Transportation and Seattle Public Utilities Committee
From: Calvin Chow, Analyst
Subject: Proposed changes to SDOT's Public Space and Business Activation Permits

On September 20, 2022, the Transportation and Seattle Public Utilities (TSPU) Committee will hear an informational item related to the Seattle Department of Transportation's (SDOT's) public space permit programs and SDOT's proposal to transition from interim COVID-19 mitigation measures to permanent program changes. Legislation to implement these program changes is anticipated to be heard at the December 6, 2022 TSPU Committee, following the break in committee schedule for Council budget deliberations.

Background

Prior to the onset of the COVID-19 pandemic, SDOT engaged in a series of initiatives to promote activation of public spaces; these included permitting of streateries, parklets, play streets and other programs to support non-vehicular use of the right-of-way. These programs became a key part of the City's COVID-19 response to allow for outdoor social distancing and to support economic activity during the public health emergency. Collectively, these programs are also referred to as the Safe Start Permit Program.

While SDOT implemented these programs under existing code authority, Council action was necessary to allow for free permits in order to make these programs more accessible. In September 2020, Council passed [Ordinance 126159](#) (later extended by [Ordinance 126339](#) and [Ordinance 126544](#)) establishing a no-cost Temporary Business Recovery Use permit (which covers uses such as cafés, merchant displays, and vending) in the Street Use Fee Schedule. Fees for existing permits covering these activities were waived to be consistent with the no-cost permits. The Temporary Business Recovery Use permit is currently authorized through January 31, 2023, after which the existing fee structure ([Ordinance 126474](#)) would apply.

In authorizing the no-cost permits, Council directed SDOT to develop a permanent permitting proposal to allow for these business uses to continue after the COVID-19 pandemic, drawing on SDOT's experience with the Temporary Business Recovery Use permits. The Council directed SDOT to provide a draft proposal by March 31, 2022 and propose legislation by June 30, 2022.

On February 1, 2022, SDOT presented an [update](#) on the Safe Start Permit Program to the TSPU Committee. In that presentation, SDOT reported issuing 276 Safe Start permits and shared the results of a [2021 survey](#) assessing general public and business owner support for the different

permitted uses. While the survey showed positive support for all the surveyed uses, support for cafés and food service vending was stronger than for retail displays in the public right-of-way. The committee discussion included a preview of SDOT’s approach to permanent program changes, including SDOT’s intention to seek flexibility through greater use of Director’s Rules.

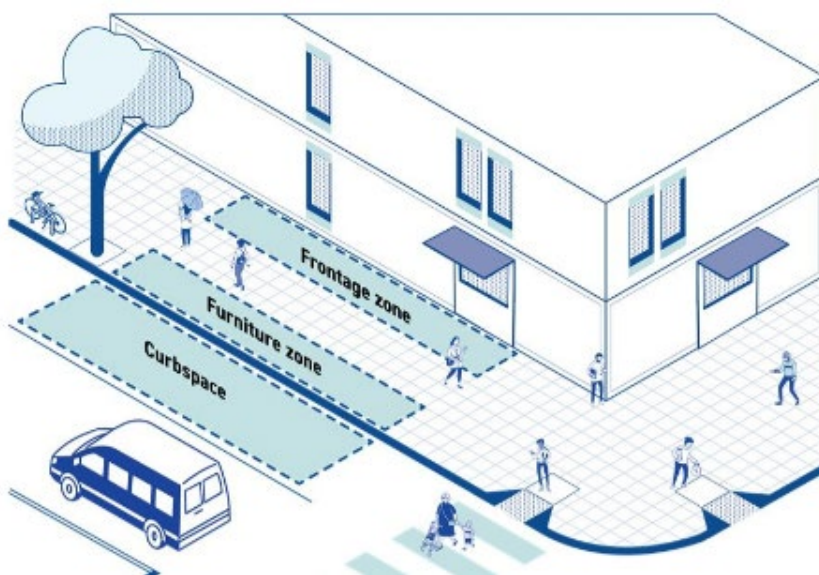
Draft Program Changes and Director’s Rules

On August 1, 2022, SDOT released [draft legislation](#) that would make comprehensive revisions to the Street Use Code. The proposed code changes would provide more flexibility for SDOT to administer permits by Director’s Rule, remove some prescriptive code requirements related to vending activities, and revise language throughout the Street Use Code for consistency.

The use of Director’s Rules would allow SDOT to adjust permit requirements as SDOT gains more experience with the program without additional legislation. Procedures for adopting Director’s Rules are covered under the City’s Administrative Code ([Chapter 3.02](#) Seattle Municipal Code) and include a public review and petition process, but do not require formal Council action. In conjunction with the draft legislation, SDOT also released draft Director’s Rules for [cafés](#), [merchandise displays](#), and [vending](#) for public comment.

The draft Director’s Rule for cafés is largely an update to an existing [2019 Director’s Rule](#) and provides location, siting, and design standards for cafés. Cafés would be allowable permitted uses in the frontage zone, the furniture zone, and in the curbspace, adjacent to businesses. Figure 1 provides a visual representation of these locations. The updated rule would also clarify permit application and administration procedures, and the responsibilities of the permittee.

Figure 1: Illustration of defined locations



The draft Director’s Rule for merchandise displays provides location, siting, and design standards for displays. The draft rule would not allow displays in the curbspace, but would allow for displays in the frontage zone to be established without a permit if the use meets specified clearance requirements for pedestrian mobility. Displays in the furniture zone would require a permit. The draft rule describes the permit application and administration procedures, and the responsibilities of the permittee/display owner.

The draft Director’s Rule for vending includes many of the requirements that are proposed to be removed from the Street Use Code and managed administratively. The draft rule highlights additional requirements for vending locations near parks, in the Pike Place Historical District, and in the Stadium and Event Vending Area. The draft rule prohibits vending in the Stadium Restricted Vending Area and prohibits route vending (essentially ice cream trucks) in defined areas of Downtown and the University District. The draft rule describes the permit application and administration procedures, and the responsibilities of the permittee.

Draft Fee Schedule

The SDOT proposal includes an updated Street Use Fee Schedule with revised permit fees for these business activation uses that would take effect once the no-cost permits expire. A summary of these permit costs is shown in Table 1. Year-round uses that request multiple locations (i.e., frontage zone, furniture zone, and curbspace locations) would trigger a \$200 fee per additional space. More complicated proposals may also trigger additional costs for specialized review or inspections, and the listed Street Use Fee would not cover other permits that may be necessary to support the proposed use (such as for new electrical service).

Table 1: Proposed cost of select street use permits

| | New Permit Issuance Fee | Permit Renewal Fee |
|---|--------------------------------|---------------------------|
| Outdoor Dining – Year | \$1,220 | \$588 |
| Outdoor Dining – Seasonal | \$500 | - |
| Merchandise Display – Year | \$1,220 | \$588 |
| Merchandise Display – Seasonal | \$500 | - |
| Vending New | \$950 | \$533 |
| Vending Temp (3 month) | \$200 | - |
| Vending Temp (daily) | \$75 | - |
| Street & Sidewalk Activities – Public Year-Round | \$200 | - |
| Street & Sidewalk Activities – Public Seasonal | \$75 | - |
| Street & Sidewalk Activities – Public Temporary | \$75 | - |
| Street & Sidewalk Activities – Private: plaza/sidewalk/curb | \$910 | - |
| Street & Sidewalk Activities – Private: travel lane impact | \$910 | - |

This proposed fee schedule simplifies the permit fee structure for business activation uses. Under the existing fee schedule, the total permit fee includes a separate issuance charge, review charge, occupation charge, and loss of parking charge. Under the proposed fee schedule, a flat issuance fee would be charged instead. This approach would provide greater cost certainty to businesses in considering whether to apply for a permit. Note that the proposed fee schedule maintains occupancy fees for other public locations (such as vending in public plazas or at Stadium events) and for food-truck vending zone permits (which remain based on parking space occupation).

The proposed changes in fee structure would mean that some permittees will see lower fees under the proposed fee schedule, while others will see higher fees. This structural change makes it difficult to make direct comparisons with existing fees, however SDOT has examples of the resulting change in permit cost to representative uses.

As an example, a combined sidewalk and curbspace café in a paid parking zone would expect to pay approximately \$3,800 annually under the existing fee schedule. The fee under the proposed fee schedule would be \$1,420; this includes the \$1,220 issuance fee shown in Table 1 plus the \$200 fee for an additional location (i.e., sidewalk and curbspace) for the first year. The cost for annual permit renewal under the proposed fee schedule would be \$588.

Another example would be issuance fees for a 120 square-foot sidewalk café, which would pay approximately \$524 under the existing fee schedule and would pay \$1,220 under the proposed fee schedule. Renewal fees for this café would be \$437 under the existing fee schedule and \$588 under the proposed fee schedule.

The proposed fee schedule was developed with a goal of full cost recovery for administration of the permit program, but also includes lower fees to incentivize seasonal, temporary, and public uses of the right-of-way. Based on anticipated permit volumes, SDOT estimates the annual program cost to be \$625,000 with permit fees generating \$547,000 of revenue. This would result in a \$78,000 program subsidy which will have to be accounted for in future budgets. Actual program costs and revenues will vary depending on the level of permit activity.

Considerations

The SDOT proposal reflects a transition from the COVID-19 emergency and a return to regular business operations. During the COVID-19 pandemic, providing outdoor space for social distancing and seating allowed for continued economic activity under public health restrictions. As part of regular business operations, these programs provide increased seating and display capacity for business.

These programs appear to offer greater utility to food service businesses, and have proved popular with the public as a way to activate public spaces in business districts. Through these programs, many businesses have constructed permitted structures that can support other public uses outside of the business' operating hours. These programs affect the character of business districts, enhancing vibrancy and livability in these neighborhoods.

SDOT's proposal to manage these programs through Director's Rules allows greater administrative flexibility to adjust permit requirements as these programs evolve, within the bounds of the Street Use Code. The proposed Director's Rules include clearance standards to maintain pedestrian mobility and protect other designated curb uses (such as commercial loading zones, bus zones, or disabled parking). Director's Rules are governed by the Administrative Code, which includes provisions for petition to the Hearing Examiner.

The proposed Street Use Fee Schedule would approach full cost recovery for these permit programs, which have been subsidized during the COVID-19 pandemic. The draft fee schedule would reduce the cost of utilizing parking curbspace and would level the permit fees between sidewalk café and curbside café uses.

Based on active 2022 permits, SDOT estimated that business activation uses impacted 86 paid parking spaces, resulting in an estimated loss of \$100,000 of parking meter revenue for the year. There is no available estimate of the economic activity supported by the 2022 permits or of the associated sales tax revenue.

Next Steps

Following discussion at the September 20, 2022, TSPU Committee and the break in committee schedule for Council's budget deliberations, legislation to implement this proposal would be heard at the December 6, 2022, TSPU Committee. If the committee recommends passage, the legislation could be considered at the December 13, 2022, Full Council meeting.

Authorization for the Temporary Business Recovery Use permits expires on January 31, 2023. As part of the legislation, SDOT anticipates requesting an extension of the no-cost permits into 2023 to provide time to transition to the new permitting structure. Program costs would need to be absorbed by SDOT during the extension of the no-cost permit program.

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