



City of Leavenworth

RIGHT-OF-WAY SPECIAL USE PERMIT APPLICATION*

This application must be filled out legibly, in blue or black ink, either hand printed or typewritten

APPLICANT*

Last Name: _____ First Name: _____ M.I. _____

Business Name: _____

Mailing Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

PHYSICAL ADDRESS OF LOCATION

Address: _____

CONTACT PERSON

Name: _____ Phone: _____

*Proposals for placement of items within City right-of-way shall be made by those businesses, owners, or lessees of property which is located directly adjacent to, and in line with, the proposed area of use. For businesses which are not located at street-grade (upstairs or downstairs), which do not have street frontage directly adjacent to their business, and/or which propose the use of right-of-way which is not directly adjacent to their business, the City may require consent of the property owner(s) and business owner(s) adjacent to the proposed area of use.

Include all of the following information and applicable drawings with your application[†]. Applications that do not include all the required information and drawings will not be accepted as complete and may be returned to the applicant, delaying the permit process.

Provide two copies of each of the following. All drawing(s) must be on paper capable of being folded for storage in an 8 1/2" x 14" file, and become the property of the City of Leavenworth.

- A site plan, drawn to scale (indicate the scale used), showing the entire sidewalk area adjacent to the building and buildings/lots immediately adjacent, from building/property edge to curb edge, with the area of use and all existing sidewalk fixtures (such as garbage receptacles, light posts and street signage), clearly delineated. All items proposed to be placed within the right-of-way by the applicant shall be depicted on a site plan (proposed placement). Such site plan shall include measurements in feet/inches.
- Details such as accurate drawings, specifications, or photographs shall be provided with sufficient information to clearly demonstrate the appearance of items proposed for placement in the right-of-way, including color and materials. Such items must demonstrate compliance with the requirements stated (see applicable Requirement handout as provided by the City).
- A narrative disclosing the intended use of the right-of-way. Such narrative should address how placement of proposed fixtures benefits the public (for placement of benches and planters) or the business use (placement of

* This application shall be subject to all additions to and changes in the laws, regulations and ordinances applicable to the proposed development until a determination of completeness has been made pursuant to LMC Chapter 21.07.

[†] The City may request additional information in order to review any Special Use Permit application.

restaurant seating). Such narrative shall also propose dates and the length of time of placement of such fixtures within the right-of-way.

- For food and/or beverage service seating, provide a floor plan of the existing eating or drinking establishment which the sidewalk seating is intended to serve, clearly demonstrating the number and placement of existing tables, chairs, restrooms, and fixtures.
- For alcoholic beverage service seating, provide the proposed directional sign design, including colors, size, fonts, and location(s), for "Alcohol shall not be permitted beyond this point" and any signage required by the Liquor Control Board (such as minor restriction signage). Directional signage shall not exceed four square feet in area, and is limited to five signs for the building (including those to be located in right of way). Evidence, such as current photographs, shall also be provided showing compliance with the number limitation for directional signs ("Directional sign" means a sign giving directions, instructions or facility information (e.g., parking, exit or entrance signs)). For signage to be located in the right-of-way, directional signage may not contain the name or logo of the business or advertising of any kind, and must be compliant with the Old World Bavarian Alpine theme, including but not limited to the use of approved fonts, colors, and inclusion of Baroque, Rococo, Classical, or Bavarian folk art elements. Contact the Development Services Department at City Hall, 509-548-5275, if you need assistance or information regarding signage.

Placement of Private Fixtures in City Right-of-Way

Requirements

Any and all benches, planter boxes, and other street furniture, fixtures, and accessories (“fixtures”) which may be proposed for use within City right-of-way shall be approved for use by the City and a Special Use Permit shall be obtained. Applications for Special Use Permits which do not show compliance with the requirements herein, or which are determined by the City to pose a threat to public health and safety, which do not protect the public good, or which do not conform with or enhance the overall character of the city, will be denied at the sole discretion of the City Administrator.

The City may place conditions of approval upon permits as necessary to ensure compliance with any federal, State, or local law or policy, including but not limited to the following:

1. Privately owned fixtures such as benches and planters may be proposed for placement year-round, and may be allowed at the City’s discretion but shall be maintained by the permittee. Such placement does not constitute “permanent” installation and private fixtures may be required to be removed from the right-of-way at the discretion of the City for any reason. Primarily of concern are impacts from loitering which could create nuisance impacts to the neighborhood, lack of upkeep and maintenance, litter and debris, right-of-way obstruction, and impacts to snow removal activities.
2. Repair and maintenance of private fixtures placed within right-of-way is the sole responsibility of the Permittee, and shall not be maintained by the City. If abandoned or in disrepair (as determined by the City), the City may remove such fixtures at the property owner’s expense. The Permittee, at Permittee’s sole expense, shall maintain the private fixtures, and the area surrounding such fixtures, in a good and sanitary condition and good state of repair. This shall include, but not be limited to, a minimum of daily cleaning of litter, graffiti, snow, ice, and dead, diseased, or overgrown vegetation or other obstructions. The Permittee shall repair damaged, stained, or discolored sidewalk caused by the placement or use of such fixtures (such as damage caused by the use of cleaning solvents, grease, or damage from fixtures being moved over the sidewalk) at the sole expense of the Permittee and at the discretion of the City.
3. Any and all fixtures shall conform with the intent of the Old World Bavarian Architectural Theme (wrought iron, wood, etc.) and the Downtown Master Plan (see pages 32 and 39 of the Plan). The City may refer elements to the Design Review Board for review and approval. Examples of compliant items may be obtained by contacting the Development Services Department at City Hall at 509-548-5275.
4. Any Special Use Permit shall be subject to termination by the City for any reason, including but not limited to, any determination by the City that the use of the sidewalk causes any undue noise disturbance, littering, or limits reasonable use of sidewalks because of the gathering of crowds which obstructs use of the sidewalk.
5. Disruption of pedestrian mobility shall not be permitted. Placement of private fixtures within the sidewalk or right-of-way shall not obstruct any entrances to buildings, pathways, parking, and/or barrier free accessible areas. A minimum of five feet of unobstructed clear space shall remain on sidewalks. This space shall be located in a way which creates a continuous path in order to ensure unrestricted egress by pedestrians at all times and ensures compliance with the requirements of the International Building Code. All private fixtures shall be located directly adjacent to a building wall, or may be placed at the curb provided that parking stalls are angled, and five feet of unobstructed travel way is allowed between the fixture and the building *and* between the fixture and any other obstruction as necessary to allow reasonable access to parking at the discretion of the City.
6. Private fixtures to be placed within the right-of-way shall not be secured with bolt mechanisms or other permanent attachments, and no modification of the right-of-way for bolting, anchoring, or other support shall be permitted. Such fixtures must be portable unless secured by the City.
7. The City shall not be liable for any theft, loss, damage, or injury to, or caused by, placement of privately owned fixtures within the right of way.
8. The granting of a Special Use Permit does not imply, warrant, or guarantee any vested status in regards to the use of the right-of-way, or future issuance of such Permit.
9. Advertising or signage of any kind is not permitted upon the fixtures, including but not limited to commemorative or information plaques, except on fixtures approved for use and available for purchase through City Hall. Any

fixture or item may display the manufacturer's label or identification not to exceed an area of three (3) inches by five (5) inches. Only one such logo or brand shall be visible on the item or fixture.

10. Decorations of any kind, such as lighting, garlands, ornaments, or other decorations applied to the fixtures or to vegetation shall not be allowed without City approval.
11. The City may require the Permittee, at Permittee's sole expense, to provide and keep in force with companies acceptable to the City, public liability insurance for the benefit of the City and Permittee jointly which policies shall insure against liability for bodily injury and property damage in the amount of not less than One Million Dollars (\$1,000,000) in respect to injuries to or death of more than one person in any occurrence, and in the amount of not less than One Million Dollars (\$1,000,000) per occurrence in respect to damage to property such limits to be for any greater amounts as may be reasonably indicated by circumstances from time to time existing at the sole discretion of the City.

YOU SHOULD KNOW!

Sidewalks, while located within City right-of-way, are required to be maintained by the adjacent property owner. The following key Leavenworth Municipal Code sections pertain to business and building owners' responsibility to maintain sidewalks.

Abutting property liable for costs.

All property having a frontage upon the sides or margin of any street is abutting property and such property shall be chargeable, for all costs of maintenance, repairs or renewal of any form of sidewalk improvement between the street margin and the roadway lying in front of and adjacent to such property, and the term "sidewalk" shall be taken to include any and all structures or forms of street improvement included in the space between the street margin and the roadway (LMC 12.16.050).

Responsibility of owner.

Whenever any street, lane, square, place or alley in the city has been improved by the construction of a sidewalk, the burden and expense of maintenance, repair and renewal of such sidewalk or sidewalks shall devolve upon the properties directly abutting upon that side of such street along which such sidewalk has been constructed (LMC 12.16.010).

Alteration of improvements on public property.

It shall be unlawful to add any color, texture or ornamentation or otherwise alter the customary and standard ingredients for construction of concrete curbs, gutters and sidewalks or other improvements on public property in the city without the approval of the public works director and, without the approval of the design review board if the project is subject to the design review board jurisdiction. In the event of any violation of this section, the city may remove said violating improvements and bill the adjacent property owner. In the event the costs of such removal are not paid within 30 days, the city may file a lien against the adjacent real property and foreclose the lien in accordance with the lien foreclosure statutes of the state of Washington (LMC 12.12.040).

Owner responsibility (to remove snow and ice) in commercial districts.

Every owner of real estate located within the general commercial district, central commercial district and tourist commercial district in the city shall, during the winter season, and during the time snow continues on the ground, clear the sidewalk or sidewalks adjoining each real property from snow and ice, and shall keep the same free from snow and ice during the day. During the process of such removal, if snow or ice is placed on the adjacent street, it shall not be done in such a manner as to obstruct or block the same or interfere with the travel thereon or in such a manner that would prevent proper drainage of the street. Any person failing to comply with this chapter shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$250.00 or by imprisonment not to exceed 30 days or by both such fine and imprisonment (LMC 12.20).

Snow or ice accumulation over public right-of-way prohibited.

It is unlawful for any property owner to allow snow or ice to hang from or accumulate on any portion of the building or structure located over public right-of-way in the city (8.56.020).