

The Consolidated Borough of
Quil Ceda Village

Commercial Use of Sidewalks, Parking Lots,
Streets, or Public Lands

Ordinance No. 08.01.4

1. **Sidewalk Sales and Displays; Sidewalk Cafes.** No person shall engage in the selling or display for sale of merchandise or services of any kind on, over or upon any sidewalk, parking lot, street, or other public, tribal or village lands outside of any permitted permanent structure, or in the operation of a sidewalk cafe, except upon the granting of a license therefore by the Village General Manager pursuant to this section and in accordance with the terms and conditions of such license.

2. **Definitions.** For the purpose of this article, the following terms shall have the following meanings:

Parking Lot — Any public or commercial parking lot.

Public Service Facility -- A public telephone, mailbox, bench or other facility provided for the use of the general public.

Public Land — Land within the Village of Quil Ceda not leased by any person or entity.

Sidewalk -- Any paved area between the curb line and a structure, whether publicly or privately owned, which is used by the public or open to use by the public.

Sidewalk Cafe -- An outdoor dining area, providing spaces to sit, with or without tables or to stand located on a sidewalk.

Street – A general term describing a right of way dedicated to public use for the access of wheeled vehicles within the Village.

3. **Sidewalk Displays.** The Village General Manager is hereby authorized to grant revocable licenses for the use of the sidewalk for the display for the sale of goods and services upon the following terms and conditions:

- A. The license and regulated activity shall be valid only during a single calendar year.
- B. The licensed activity shall be conducted only as an accessory to a business establishment lawfully operating on the first floor of premises in the Village, on the sidewalk in front of the principal place of business of such establishment and by the entity which operates such establishment. All sales shall be conducted within such establishment unless the license specifically allows otherwise. No cash register or other facility for the exchange of currency or otherwise receiving payment for goods and services shall be permitted on the sidewalk.
- C. The applicant shall have the consent of the owner and lessee, if any, of the premises in front of which the licensed activity is to be conducted.

- D. There shall be no less than eight feet from the curb line to the front of the nearest structure.
- E. No sidewalk display shall be nearer than three feet zero inches to the curb, except that if the sidewalk is nine feet zero inches or more in width, then the distance from the curb shall be not less than 1/3 of the width of the sidewalk with a maximum of two rows.
- F. The applicant shall at all times maintain free and clear from all obstruction an aisle not less than three feet in width providing access to any establishment fronting on said sidewalk.
- G. No permanent structure may be affixed to the sidewalk or any building. The applicant shall be responsible for any damage caused to any sidewalk or public property.
- H. The sidewalk use shall not interfere with access to any public service facility.
- I. No outdoor lighting or live or mechanical music shall be permitted.
- J. No sidewalk display shall be permitted after the entity with which it is associated is not open to the public.
- K. The applicant shall agree, on a form approved by the Village Attorney, to indemnify and save harmless Quil Ceda Village, its officers, agents, attorneys and employees from and against any claim of loss, liability or damage by any person arising as a result of the applicant's operation of the sidewalk use.
- L. The applicant shall obtain and maintain in full force and effect throughout the term of the license a policy of general liability insurance, which such policy shall name Quil Ceda Village, its officers, agents, attorneys and employees as additional insured, have a combined single limit of not less the amount established by the Village Council and contain a provision prohibiting its cancellation except upon 20 days notice to the Quil Ceda Village Council. The applicant shall file with the Village General Manager, prior to the issuance of the license, a certificate evidencing the requisite insurance.
- M. The applicant shall file with the Village Clerk, prior to the issuance of the license, a cash deposit in an amount to be set forth by resolution of the Village Council in the Master Fee Schedule, which may be amended from time to time, as security for the faithful performance by the applicant of the terms and conditions of the license. Said deposit shall be maintained by the Village Clerk in a separate, interest bearing account, for the benefit of the applicant and shall be returned to the applicant with interest, but less any administrative sanctions imposed by the Village General Manager under § 8 of this Ordinance, within 30 days of the termination of the license. Said cash deposits shall be maintained at the amount set forth in the Master Fee Schedule, and if utilized by the village pursuant to this article, shall be replenished to the original amount within 30 days of withdrawal.
- N. Any other conditions as to the Village or Tribal Building Inspector shall be reasonable and necessary to protect the health, welfare and safety of the public, including the denial of the application.

4. **Sidewalk Cafes.** The Village General Manager is hereby authorized to grant revocable licenses for the use of the sidewalks for sidewalk cafes upon the following terms and conditions:

- A. The applicant shall comply with all of the terms and conditions for a sidewalk display license, set forth in § 3 above, including, without limitation, the indemnification, insurance and security deposit requirements.
- B. The applicant shall delineate the cafe area by a removable physical barrier separating patrons from pedestrian traffic. The delineation and layout of the cafe area shall be consistent with the site plan submitted by the applicant.
- C. No sidewalk cafe may be operated except:
 - (1) As an accessory to a restaurant or retail food store lawfully operating on the first floor of premises in the Village.
 - (2) On the sidewalk in front of the principal place of business of such entity.
 - (3) By the entity which operates a restaurant or retail food store.
- D. No sidewalk cafe shall operate after 10:15 p.m. or when the entity with which it is associated is not open to the public.
- E. Furnishing of a sidewalk cafe shall consist solely of readily removable umbrellas, covers, railings, tables, chairs, planters containing live plants, waste receptacles and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property or to any building or structure. All furnishings shall be removed from the sidewalk and stored in an approved manner when the sidewalk cafe is not in operation.
- F. All food must be prepared within the existing restaurant or retail food store upon which the cafe license has been granted.
- G. The applicant shall be responsible for obtaining, maintaining in full force and effect and complying with the terms and conditions of any permit which may be required under any other law or regulation for the serving of food or beverages, including alcoholic beverages, at a sidewalk cafe or other restaurant within the Village.
- H. Sidewalk cafes, the public property on which they are located and the surrounding area shall at all times be kept free and clear of litter, debris and any substance that may damage the sidewalk or cause pedestrian injury.
- I. The applicant shall maintain a sufficient number of receptacles for the disposal of waste, properly covered to prevent infestation by insects. Such receptacles shall be emptied as often as is necessary, but in no event less than once per day. The expense for disposal of waste will be the responsibility of the applicant.

5. **Special Sidewalk, Parking Lot or Street Sales.** Anything in this article to the contrary notwithstanding, the Village General Manager may permit the selling and display for sale of merchandise on, over or upon the sidewalk, a parking lot or street at any location within the Village for a period not to exceed seven days in conjunction with organized outside sales days open to participation by any retail merchants or, where appropriate, by a single merchant.

6. Application for License.

- A. Application for a license pursuant to this article shall be made within 14 days prior to the intended date(s) of display on a form designated by the Village General Manager and approved by the Village Attorney. Such form shall contain at least the following information:
- (1) The name and address of the applicant.
 - (2) The proposed site for the activity.
 - (3) In the case of an application for a sidewalk cafe, a site plan showing the proposed layout.
 - (4) In the case of an application for a sidewalk display, a description of the floral or shrubbery orientation to be approved to assure proper pedestrian access.
- B. The application shall be accompanied by an application fee as set forth by resolution of the Village Council in the Master Fee Schedule, which may be amended from time to time.

7. Determination on Application. The Village General Manager shall grant or deny an application for a license pursuant to this article within ten days of its complete submission.

8. Existing Leases. This Ordinance shall not be construed to interfere with or contravene the terms and conditions of any lease to which the Tulalip Tribes is a party.

9. Notice of Violation; Denial, Revocation or Suspension of License; Sanctions.

- A. Upon a finding by the Village General Manager that the applicant has violated any provision of this article or the terms and conditions of the license or has engaged in any practice in conjunction with the regulated sidewalk activity which constitutes a danger to the health or safety of any patron or pedestrian, the Village General Manager shall give notice to the applicant to correct such violation or cease such practice within 24 hours. If the applicant fails to comply with such notice, the Village General Manager may suspend the license for a period not in excess of 30 days, during which time the applicant shall be entitled to a hearing, before the Village Council, at which the applicant may be represented by counsel, to present evidence in his or her behalf and confront the evidence against him or her. If, upon considering the evidence presented at the hearing, the Village Council adheres to the finding, the Village Council may reinstate the license with additional conditions related to the violation or improper practice which has been found or revoke the license and forfeit the applicant's cash deposit.
- B. In addition to or in substitution for the suspension or revocation of the license, the Village Council may impose an administrative sanction in an amount determined by it to be the cost to the Village of the applicant's failure to comply with the terms of this section or the permit issued to the applicant pursuant hereto, which such sanction shall be deducted by the Village Treasurer from the applicant's cash deposit. The suspension, revocation or other action taken pursuant to this subsection shall not relieve the applicant or any other person from any liability which may be imposed pursuant to other sections of this article.

10. **Reservation of Rights.** Neither the adoption of this article nor the granting of any license pursuant hereto shall be construed as a waiver of any right, privilege or immunity of Quil Ceda Village with respect to streets and sidewalks, whether express or implied.

11. **Penalties for Offenses.** Any person who shall violate any of the provisions of this article shall be liable to suit in the Tulalip Tribes Court System and shall, upon conviction thereof, be liable to a civil enforcement penalty that shall not exceed two thousand dollars per day.

12. **Fees.** Fees pursuant to this article shall be set forth by resolution of the Village Council in the Master Fee Schedule, which may be amended from time to time.

ADOPTED by the Village Council at a regular meeting assembled on the 5th day of November, 2002, with a quorum present by a vote of 3 for and 0 against.

THE CONSOLIDATED BOROUGH OF QUIL CEDA VILLAGE

Stanley G. Jones Sr., Village President

ATTEST:

Marie Zackuse, Village Clerk