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PATEROS MALL LICENSE APPLICATION

Date _____

Business Requesting License for Mall Use _____

Contact Person: _____ Phone: _____

Contact Address: _____ City _____ State _____ Zip _____

Email: _____

It is the purpose of this license to protect the beauty and aesthetic appeal of the City and promote commerce and business through the use of the Pateros Mall by abutting businesses; and to further the public health, welfare and safety within the City.

Words and terms used on this application are in reference to Pateros Municipal Code 12.14.020 Definitions

APPLICATION FOR A PATEROS MALL LICENSE

1. Days of Operation Mon Tue Wed Thu Fri Sat Sun

2. Hours of Operation _____

3. Will Alcohol be served? _____

4. A complete description of the proposed Pateros Mall Activity:

5. Submit two (2) sets of drawings to scale depicting at a minimum:

- The area proposed for Pateros Mall Activities**
- Minimum pedestrian right-of-way**
- Pedestrian entrances**
- Litter control devices**
- Outside lighting locations (if additional lighting will be used)**
- Barrier design and attachment**
- Signage**

6. Provide proof of public liability and property damage insurance in an aggregate amount of not less than one-million dollars (\$1,000,000.00) per incident, naming the City of Pateros as an additional insured.

7. I have read and agree to follow Pateros Municipal Code Chapter 12.14 including, but not limited to:

Initial _____

PMC 12.14.040 Section C:

The administrator shall issue a Pateros License which establishes reasonable conditions as to the conduct of the Pateros Mall Activity, as determined by the Administrator, 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 and not used for Pateros Mall activity upon the order of the Administrator or other appropriate City officer or their authorized representatives.
3. Barriers and outdoor furniture may remain outside within the designated space when business is closed, not to exceed a period longer than seven (7) days;
4. Provisions that the Licensee shall maintain a designated area in clean and safe condition for pedestrian travel;
5. A requirement that the Licensee clear the Pateros Mall as may be necessary to accommodate deliveries to abutting or nearby properties;
6. Regulations for lighting and illumination, noise, and restrictions upon the placement of furniture or equipment used in connection with the Pateros Mall Activity;
7. Restoration of the Pateros Mall upon the completion of the Pateros Mall Activity;
8. Increased minimum pedestrian right-of-way and overhead height of at least seven (7) feet (trees, canopies, umbrellas, etc.) to ensure safe walking conditions an/or visual aesthetics.

Initial _____

PMC 12.14.040 Section D:

Unless expressly authorized by the Administrator, no pavement, concrete or surface area shall be broken, or disturbed, and no permanent fixture of any kind shall be installed in or on the Pateros Mall area in connection with the Pateros Mall Activity

Initial _____

PMC 12.14.040 Section E:

Liquor, as defined in RCW 66.04.010, as existing or hereinafter amended, may be used and/or sold when authorized by the Pateros Mall License, the Okanogan County Health District, and the Washington State Liquor and Cannabis Control Board (“WSLCB”), and not otherwise. The

following are the minimum requirements and may be subject to modification by the above approvals:

1. Must be a permanent or movable barrier at a minimum of forty-two inches (42” in height that encloses the outside secure area. Limited exceptions to this require barrier may be allowed if granted by the WSLCB. The use of a demarcation in lieu of a barrier may be allowed if approved by WSLCB.
2. Barriers that are permanently affixed when in use must meet general design requirements of the International Building Code. The barrier base that is attached to the Pateros Mall shall not pose a safety risk such as a potential tripping hazard.
3. Barrier surface must be smooth and not considered hazardous and dangerous.
4. Approval document by the WSLCB for the Pateros mall Activity.
5. Only one entrance to an outside service area is allowed. Minimum opening shall be forty-four inches (44”) and a maximum opening of one-hundred and twenty inches (120”) facing the Abutting Business.

Initial _____

PMC 12.14.050 Conduct of Pateros Mall Business Activities

- A. All Pateros Mall Activities shall comply with the requirements of the Pateros Mall License and shall comply with the other provisions of the Pateros Municipal Code.
- B. Except as permitted by WSLCB, Pateros Mall Activities shall not include the service or consumption of alcoholic beverages.
- C. A licensee shall comply with all relevant regulations of the Okanogan County Health District; shall keep and maintain the Pateros Mall area covered by such Pateros Mall License in a clean, neat and safe manner at all times; and shall provide such receptacles for the placing of trash or refuge as necessary to comply with the Pateros Mall License.
- D. The minimum pedestrian right-of-way and Pedestrian Entrances shall be maintained at all times to permit free access across the Pateros Mall and to the Abutting Business consistent with the Pateros Mall License and codes relating to buildings, fire and barrier free access.
- E. Areas containing trees and/or shrubs, street furniture, public signage or planter boxes shall not be disturbed or used in connection with Pateros Mall Activities and shall not be included within the minimum pedestrian right-of-way.
- F. No electrical cords or wiring shall be permitted to interfere with pedestrian traffic, and any permitted electrical wiring shall comply with the provisions of the electrical code that applies to the City.
- G. In the event of cancellation or termination of required insurance coverage, such Pateros Mall License shall be suspended until insurance is reestablished.
- H. All Pateros Mall Licenses shall be subject to the prior right-of-way of the City or Utility companies to effect repair and maintenance within and upon the Pateros Mall
- I. The Licensee shall comply with the terms and conditions of the Pateros Mall License, and shall maintain the Pateros Mall in a clean and safe condition for pedestrian travel, and shall immediately clear the Pateros mall Area when ordered to do so by the Administrator or other appropriate City officer or other authorized representatives.
- J. The Licensee shall bear all costs to correct all conditions to the Pateros Mall covered by the Pateros Mall License that are determined to be unsafe by the Administrator.
- K. A Pateros Mall License may be revoked without notice at any time by the Administrator, according to the summary abatement procedures set out in PMC 8.16.100, upon the Administrators determination that the Pateros Mall Activities cause or create unsafe pedestrian passage, or a danger to the health and safety of the public.

Initial _____

8. The applicant agrees to indemnify and hold the City free and harmless from all liability arising in relation to the conduct of the Pateros Mall Activity.

Initial _____

By signing this application, the applicant acknowledges that he/she has read this agreement and agrees to follow the conditions herein.

Date _____

Printed Name _____

Signature _____

Date _____

Facility Use Agreement Approved by:

Title _____

Signature _____

Office Use Only

Date Received _____ City Official _____

- 1. Days/Hours of Operation **Modification**
- 2. Alcohol/Description of Pateros Mall Activity
- 3. 2 submitted Plans **Modification**
- 4. Proof of Insurance
- 5. Agreement signatures
- 6. Modifications Initialed
- 7. Agreement forwarded to Washington State Liquor and Cannabis Board, Retail Liquor Enforcement Officer

ORDINANCE NO. 781

AN ORDINANCE OF THE CITY OF PATEROS, WASHINGTON, ADDING A NEW CHAPTER 12.14 TO THE PATEROS MUNICIPAL CODE ENTITLED "PATEROS MALL USE AND REGULATION", WHICH PROVIDES FOR THE REGULATION AND CONTROL OF THE PATEROS MALL AREA.

WHEREAS, the City Council of the City of Pateros, Washington, ("City") has determined that to protect the beauty and aesthetic appeal of the City, and to promote business and commerce within the City, it would be beneficial to allow abutting businesses to the area known as the Pateros Mall to obtain a license to conduct commercial activities within defined areas in the Pateros Mall.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PATEROS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Title 12 of the Pateros Municipal Code is hereby amended to add a new Chapter 12.14 entitled "Pateros Mall Use and Regulation" as follows:

12.14.010 Purpose.

It is the purpose of this Chapter to protect the beauty and aesthetic appeal of the City and promote commerce and business through the use of the Pateros Mall by abutting businesses; and to further the public health, welfare and safety within the City.

12.14.020 Definitions.

Words and terms used in this Chapter shall utilize their common meaning including, without limitation, the following:

"Abutting Business" means the business conducted in the building abutting the Pateros Mall.

"Administrator" means the City Administrator or their designee, or such other person as designated to administer the provisions of this Chapter by the Mayor.

"License Hours" means the period commencing one-half hour prior to the opening of an Abutting Business and one-half hour after the closing of an Abutting Business.

"Licensee" means the holder of a Pateros Mall License.

"Pateros Mall" means that the pedestrian right-of-way located between Commercial Street and Lakeshore Drive in the City of Pateros.

"Pedestrian Entrances" means the entrances to all buildings or outside seating area enclosed by a barrier as required by the terms of the license.

"Pateros Mall Activity" or "Pateros Mall Activities" means activities that may be conducted on the Pateros Mall by the operator of an Abutting Business and are an extension of the Abutting Business, which include, without limitation, display and sale of goods and merchandise or services and the service and consumption of food and beverages of like kind and quality to that displayed and offered within the Abutting Business.

"Pateros Mall Business" means an Abutting Business that has been issued a Pateros Mall License to conduct Pateros Mall Activities.

"Pateros Mall License" means a license to conduct business activities within the Pateros Mall issued pursuant to the provisions of this Chapter.

"Pateros Mall Café" means a business activity which includes the serving of food or beverages from within the Abutting Business.

12.14.030 Pateros Mall to be kept clear.

Except as expressly authorized within this Chapter, the Pateros Mall shall be kept clear of any item and shall permit the free flow of pedestrian traffic over the entire width of the Pateros Mall.

12.14.040 License to conduct business activity in the Pateros Mall.

A. The operator of an Abutting Business may conduct Pateros Mall Activities during License Hours upon obtaining and complying with the provisions of a Pateros Mall License and this Chapter. A Pateros Mall Business is subject to the following standards:

1. A Pateros Mall Business shall be limited to an area not to exceed ten (10) feet from the centerline of the Pateros Mall;

2. A Pateros Mall Business shall maintain the required Pedestrian Entrances; and

3. Businesses may be allowed a Pateros Mall License if the Administrator determines through application of reasonable conditions as set forth in subsection C of this section that the pedestrian travel is safe and adequately provides for walkability.

B. Application for a Pateros Mall License shall include but not be limited to the following information:

1. A complete description of the proposed Pateros Mall Activity, and for Pateros Mall Cafes', whether or not alcohol will be sold or served and hours of operation;

2. Two (2) sets of drawings to scale depicting at a minimum: the area proposed for Pateros Mall Activities, minimum pedestrian right-of-way, Pedestrian Entrances, litter control devices, outside lighting locations, barrier design and attachment and signage posted if required by WAC Title 314; and

3. The agreement by the Abutting Business to indemnify and hold the City free and harmless from all liability arising in relation to the conduct of the Pateros Mall Activity, together with proof of such public liability and property damage insurance in an aggregate amount of not less than one-million dollars (\$1,000,000.00) per incident, naming the City of Pateros as an additional insured.

C. The Administrator shall issue a Pateros Mall License which establishes reasonable conditions as to the conduct of the Pateros Mall Activity, as determined by the Administrator, 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 and not used for Pateros Mall Activity upon the order of the Administrator or other appropriate City officer or their authorized representatives.

3. Barriers and outdoor furniture may remain outside within the designated space when the business is closed, not to exceed a period longer than seven (7) days;

4. Provisions that the Licensee shall maintain a designated area in clean and safe condition for pedestrian travel;
5. A requirement that the Licensee clear the Pateros Mall as may be necessary to accommodate deliveries to abutting or nearby properties;
6. Regulations for lighting and illumination, noise, and restrictions upon the placement of furniture or equipment used in connection with the Pateros Mall Activity;
7. Restoration of the Pateros Mall upon completion of the Pateros Mall Activity; and
8. Increased minimum pedestrian right-of-way and overhead height of at least seven (7) feet (trees, canopies, umbrellas, etc.) to ensure safe walking conditions and/or visual aesthetics.

D. Unless expressly authorized by the Administrator, no pavement, concrete or surface area shall be broken, or disturbed, and no permanent fixture of any kind shall be installed in or on the Pateros Mall area in connection with the Pateros Mall Activity.

E. Liquor, as defined in RCW 66.04.010, as existing or hereinafter amended, may be used and/or sold when authorized by the Pateros Mall License, the Okanogan County Health District, and the Washington State Liquor and Cannabis Control Board ("WSLCB"), and not otherwise. The following are the minimum requirements and may be subject to modification by the above approvals:

1. Must be a permanent or movable barrier at a minimum of forty-two inches (42") in height that encloses the outside secure area. Limited exceptions to this required barrier may be allowed if granted by the WSLCB. The use of a demarcation in lieu of a barrier may be allowed if approved by WSLCB.
2. Barriers that are permanently affixed when in use must meet general design requirements of the International Building Code. The barrier base that is attached to the Pateros Mall shall not pose a safety risk such as a potential tripping hazard.
3. Barrier surface must be smooth and not considered hazardous and dangerous.
4. Approval document by the WSLCB for the Pateros Mall Activity.

5. Only one entrance to an outside service area is allowed. Minimum opening shall be forty-four inches (44") and a maximum opening of one-hundred and twenty inches (120") facing the Abutting Business.

F. An operator of an Abutting Business may appeal the denial of a Pateros Mall License or any condition imposed in the Pateros Mall License upon filing a written notice of appeal with the Administrator within ten (10) days of receipt of such denial that sets out the specific grounds for the appeal, and includes such information and documents as the operator believes are relevant to the appeal. The Administrator shall review the grounds for such appeal within ten (10) business days of receipt of such appeal during a meeting open to attendance by the operator. During said meeting, the operator may present argument, but no evidence that is not part of the notice of appeal may be presented. The decision of the Administrator shall be final and not appealable.

G. A Pateros Mall License is personal to the operator of the Abutting Business and may not be assigned or transferred.

H. The Pateros Mall License shall have a term equal to the term of the business license issued by the City of Pateros for the operation of the Abutting Business. Pateros Mall Activities are only permitted to operate from April 1st through October 31st, in which point the Pateros Mall shall be returned to its original state, with the exception of any permanent barriers installed. In the event that a Pateros Mall License is revoked, or upon expiration and non-renewal of the Pateros Mall License by the Licensee, any permanent fixtures must be removed by the Licensee, and the Pateros Mall returned to its original state.

I. In the event that there is more than one (1) Abutting Business in a building abutting the Pateros Mall, a Pateros Mall License may be issued to such Abutting Business as the owner/manager of the building containing such Abutting Business shall designate in writing.

12.14.050 Conduct of Pateros Mall Business Activities.

A. All Pateros Mall Activities shall comply with the requirements of the Pateros Mall License and shall comply with the other provisions of Pateros Municipal Code.

B. Except as permitted by WSLCB, Pateros Mall Activities shall not include the service or consumption of alcoholic beverages.

- C. A Licensee shall comply with all relevant regulations of the Okanogan County Health District; shall keep and maintain the Pateros Mall area covered by such Pateros Mall License in a clean, neat and safe manner at all times; and shall provide such receptacles for the placing of trash or refuse as necessary to comply with the Pateros Mall License.
- D. The minimum pedestrian right-of-way and Pedestrian Entrances shall be maintained at all times to permit free access across the Pateros Mall and to the Abutting Business consistent with the Pateros Mall License and codes relating to buildings, fire and barrier free access.
- E. Areas containing trees and/or shrubs, street furniture, public signage or planter boxes shall not be disturbed or used in connection with Pateros Mall Activities and shall not be included within the minimum pedestrian right-of-way.
- F. No electrical cords or wiring shall be permitted to interfere with pedestrian traffic, and any permitted electrical wiring shall comply with the provisions of the electrical code that applies to the City.
- G. In the event of cancellation or termination of required insurance coverage, such Pateros Mall License shall be suspended until insurance is reestablished.
- H. All Pateros Mall Licenses shall be subject to the prior right-of-way of the City or utility companies to effect repair and maintenance within and upon the Pateros Mall.
- I. The Licensee shall comply with the terms and conditions of the Pateros Mall License, and shall maintain the Pateros Mall in a clean and safe condition for pedestrian travel, and shall immediately clear the Pateros Mall area when ordered to do so by the Administrator or other appropriate City officer or other authorized representatives.
- J. The Licensee shall bear all costs to correct all conditions to the Pateros Mall covered by the Pateros Mall License that are determined to be unsafe by the Administrator.
- K. A Pateros Mall License may be revoked without notice at any time by the Administrator, according to the summary abatement procedures set out in PMC 8.16.100, upon the Administrator's determination that the Pateros Mall Activities cause or create unsafe pedestrian passage, or a danger to the health and safety of the public.

12.14.060 Violations.

Violations of this Chapter shall constitute a nuisance, and the provisions regarding enforcement, abatement, correction, penalties, and violations established under Chapter 8.16 of the Pateros Municipal Code shall apply.

Section 2. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect five (5) days after its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PATEROS, WASHINGTON, on this ____ day of _____, 2020.

APPROVED:

By: _____
Carlene Anders, Mayor

ATTEST:

By: _____
Kerri Wilson, City Clerk-Treasurer

APPROVED AS TO FORM:

By: _____
W. Scott DeTro, City Attorney

WAC 314-03-200 Outside or extended alcohol service. A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

(1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height.

(2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.

(3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.

(4) Must have leasehold rights to the area and have and be connected to the licensed premises.

(5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.

(6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.

(a) The permanent demarcation must be at all boundaries of the outside service area;

(b) The permanent demarcation must be at least six inches in diameter;

(c) The permanent demarcation must be placed no more than ten feet apart;

(d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;

(e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;

(f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.

(7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.

(a) The licensee must have exclusive leasehold rights to the outside service area.

(b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

[Statutory Authority: RCW 66.08.030 and 66.44.310. WSR 20-03-180, § 314-03-200, filed 1/22/20, effective 2/22/20. Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-200, filed 5/31/17, effective 7/1/17.]

WAC 314-03-300 Alterations to a licensed premises. The following changes to a licensed premises require approval from the board's licensing division:

(1) Any alteration that affects the size of a premises' customer service area.

(a) The licensee must submit two sets of floor plans showing the changes.

(b) The board's licensing division will make an initial response on the licensee's request for alterations within five business days.

(c) The licensee must contact their local liquor enforcement officer when the alteration is completed.

(d) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor enforcement officer.

(2) Excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub.

The licensee must submit their request to the board's licensing division for an approval.

(3) Excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant.

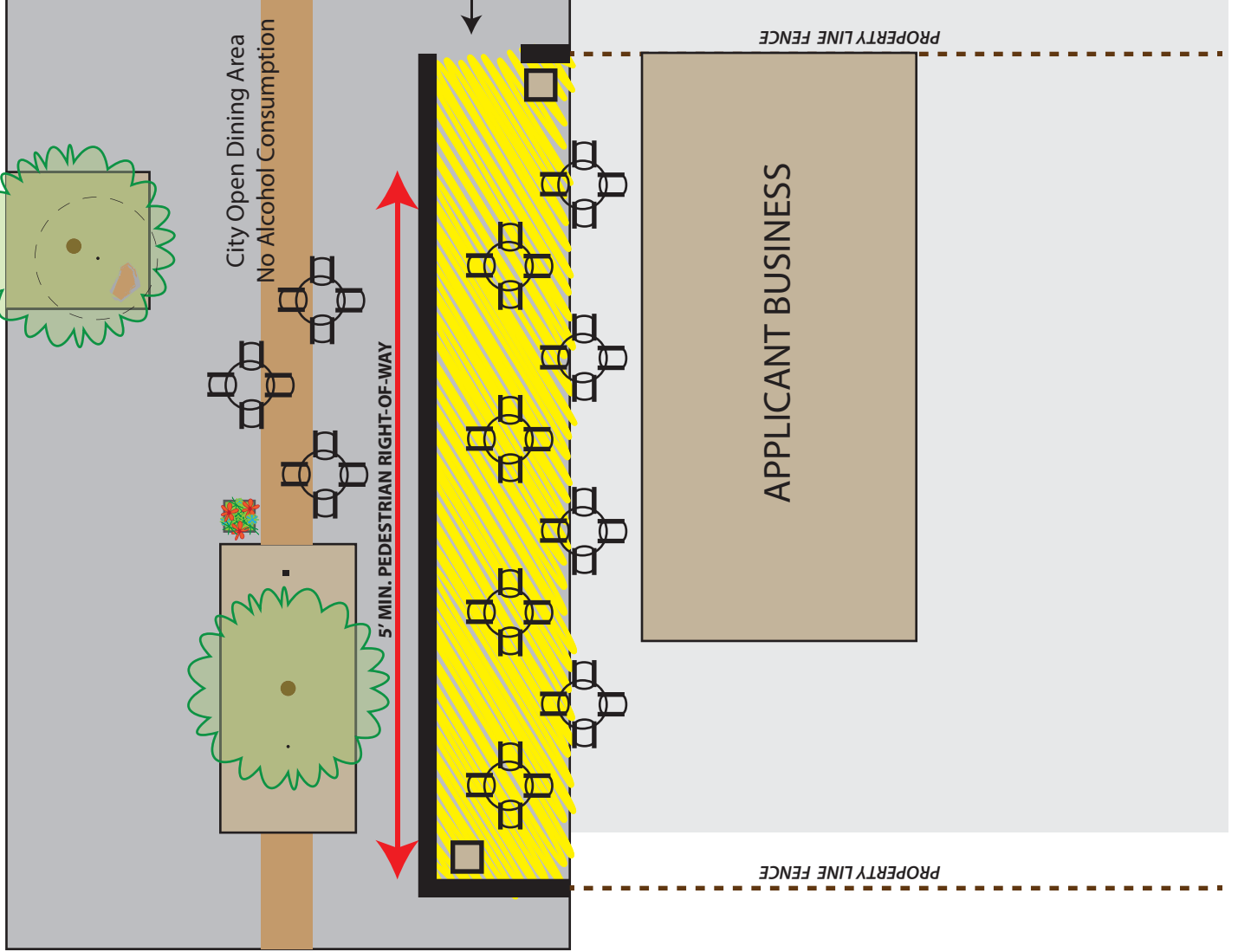
The licensee must submit their request to the board's licensing division for an approval.

(4) Reclassifying a lounge as open to persons under twenty-one years of age for a special event.

The licensee must submit their request to the board's licensing division for an approval.

[Statutory Authority: RCW 66.08.030. WSR 17-12-030, § 314-03-300, filed 5/31/17, effective 7/1/17.]

PATEROS MALL



EXAMPLE OF DRAWING FOR MALL LICENSE to include:

 PROPOSED AREA FOR PATEROS MALL ACTIVITIES

 TRASH RECEPTACLES

 NUMBER AND PLACEMENT OF TABLES/CHAIRS

NOTE ANY ADDITIONAL OUTSIDE LIGHTING, SIGNAGE, UMBRELLAS, AND FURNITURE

NOT MORE THAN 10'0" PEDESTRIAN ENTRANCE

