

2022 DRAFT DIRECTOR'S RULE: MERCHANDISE DISPLAYS IN THE PUBLIC PLACE

Subject: Merchandise Displays in the Public Place	Page 1 of 23 Supersedes: Publication: Effective:
Type of Rule: Legislative	Ordinance Authority: SMC 3.12.020 and Ordinance
Code and Section Reference: Seattle Municipal Code Section 15.02.046 and Chapter 15.15	Approved: Interim Director, Seattle Department of Transportation

1. REFERENCES

- 1.1. Seattle Municipal Code (SMC) Title 11, Vehicles and Traffic
- 1.2. Seattle Municipal Code (SMC) Title 15 (Street and Sidewalk Use), Chapter 15.15 (Merchandise Displays in the Public Place) and Subtitle IV (Enforcement)
- 1.3. SMC Chapter 23.32, Land Use Maps
- 1.4. SMC Chapter 25.08, Noise Control
- 1.5. SMC Chapter 25.24, Pike Place Market Historical District
- 1.6. SMC Chapter 23.55, Signs
- 1.7. SMC Title 25, Environmental Protection and Historic Preservation
- 1.8. SMC Chapter 23.66, Special Review Districts
- 1.9. Right-of-Way Improvements Manual (also known as Streets Illustrated), Seattle Department of Transportation Director's Rule 04-2017
- 1.10. Right-of-Way Opening and Restoration Rule, Seattle Department of Transportation Director's Rule 01-2017
- 1.11. Seattle Building Code (SBC) Chapters 11 and 16

- 1.12. International Code Council A117.1-2009
- 1.13. Seattle 2035: City of Seattle Comprehensive Plan 2015-2035

2. BACKGROUND AND PURPOSE

- 2.1. The Seattle Department of Transportation (SDOT) is authorized to manage Seattle’s transportation system and strives to operate and maintain this system to support public health and safety for the traveling public of all ages and abilities. We are also responsible for overseeing permit processes for the public place, including the application process for merchandise display permits.
- 2.2. SDOT supports the merchandise display program to activate the street-level pedestrian environment, increase vibrancy and economic sustainability in commercial districts, and support retail businesses in Seattle.
- 2.3. The purpose of this rule is to interpret and implement provisions of the Seattle Municipal Code (SMC) Chapter 15.15, Merchandise Displays in the Public Place, and to provide standardized siting and design conditions both for merchandise displays that require a Street Use permit and merchandise displays that may make use of the public place without a permit. When the rule is citing existing sections of the SMC, the code language is referenced by the SMC citation.

One of the four central goals identified for the City of Seattle transportation system, as outlined by the Seattle 2035 Comprehensive Plan, is to “develop a more vibrant city by creating streets and sidewalks that generate economic and social activity, adding to the city’s overall health, prosperity, and happiness.” The City of Seattle seeks to design and operate streets to promote healthy and vibrant urban environments while keeping safety, accessibility, and aesthetics in balance. Cafés, if managed correctly, can help the city meet these goals and these specific policy objectives identified in the plan:

- Transportation policy 5.10: Build great streetscapes and activate public spaces in the right-of-way to promote economic vitality.
- Transportation policy 2.15: Create vibrant public spaces in and near the right-of-way that foster social interaction, promote access to walking, bicycling, and transit options, and enhance the public realm.
- Transportation policy 2.11: Design sidewalks in urban centers, urban villages, and areas designated as pedestrian zones in the Land Use Code to meet the dimensional standards as specified in the Right-of-Way Improvements Manual to foster vibrant pedestrian environments in these areas.
- Transportation policy 2.6: Allocate space in the flex zone to accommodate access, activation, and greening functions, except when use of the flex zone for mobility is critical to address safety or to meet connectivity needs identified in modal master plans.
- Growth Strategy policy 3.25: Promote well-defined outdoor spaces that can easily accommodate potential users and that are well integrated with adjoining buildings and spaces.

3. DEFINITIONS

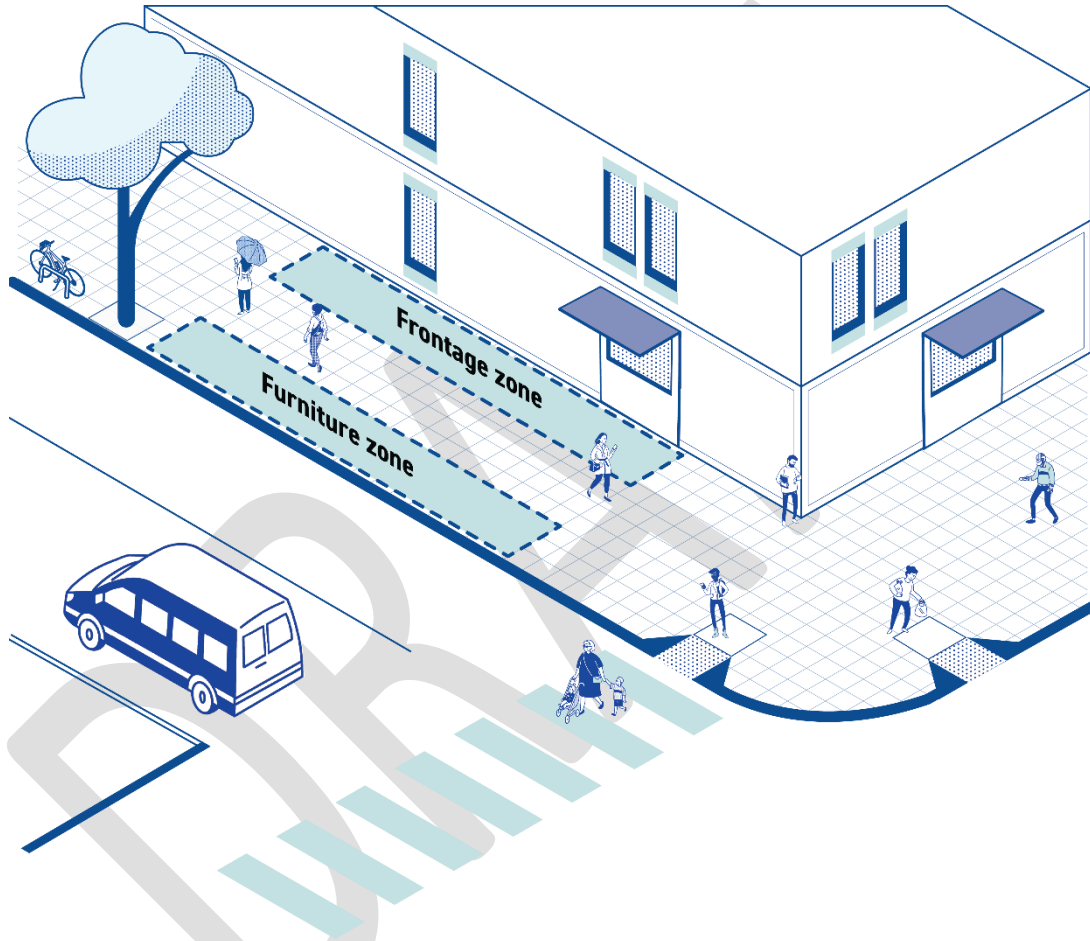
- 3.1. "Areaway" means a space below the level of the sidewalk, covered or uncovered, affording room, access or light to a building. An "areaway" is sometimes called a "light well." (SMC 15.02.042)
- 3.2. "Corner clearance zone" means the area that includes the intersection of two sidewalks and extends on the sidewalk to whichever is farther: 5 feet from the intersection of two sidewalks; or the far edge of a marked crosswalk or curb ramp, as illustrated in Exhibit B for SMC 15.02.042;
- 3.3. "Crosswalk" means the portion of the roadway between the intersection area and the prolongation or connection of the farthest sidewalk line, or, in the event there are no constructed sidewalks, then between the intersection area and a line ten feet (10') therefrom, except as modified by a marked crosswalk. (SMC 11.14.135)
- 3.4. "Curbspace" means that portion of the roadway area next to the curb. (SMC 11.14.157)
- 3.5. "Display owner" means the owner of the retail business directly abutting the public place on which the display is placed.
- 3.6. "Diverter" means a design element placed on either end of a café that clearly defines the extent of the café footprint and indicates the intended direction of travel along the block face.
- 3.7. "Merchandise display footprint" means the total area of ground used by the merchandise display including furniture, racks, goods, decorations, fencing, bases, footings, and any other associated objects.
- 3.8. "Merchandise display" means to display on the public place, goods or wares that are offered for sale by the business on the adjoining property. Sales of the displayed goods or wares shall occur on the adjoining privately owned property. (SMC 15.02.044)
- 3.9. "Pedestrian clear zone" means the area of the public place that is specifically reserved for pedestrian travel. Street furniture, plantings, and other obstructions shall not protrude into this zone. (SMC 15.02.046)
- 3.10. "Pedestrian straight path" means a 3-foot-wide continuous, straight, and unobstructed corridor within the designated pedestrian clear zone that extends along the permitted area and for 25 feet on either end of the permitted area's boundaries along the block face. The pedestrian straight path provides pedestrians with a clear indication of the travel path location, usually parallel to the curb, and dictates that the pedestrian clear zone shall be generally straight with no sharp turns. (SMC 15.02.046)
- 3.11. "Permittee" means a person or entity that has received a permit to use the public place. (SMC 15.02.046).
- 3.12. "Public place" means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles, and plazas that are not privately owned. (SMC 15.02.046)
- 3.13. "Retail business" means a business that sells goods to individual consumers for their own use or consumption.

4. LOCATIONS FOR MERCHANDISE DISPLAYS

4.1. Location in the Public Place

- 4.1.1. Merchandise Displays shall be located abutting a legally established retail business.
- 4.1.2. There are two common locations for merchandise displays, based on where in the public place they are located: furniture zone merchandise display and frontage zone merchandise display as depicted in Figure 1.

FIGURE 1: LOCATIONS FOR MERCHANDISE DISPLAYS



- 4.1.3. In this rule, specific standards and requirements are indicated when they apply to a merchandise display type.
- 4.1.4. We seek to manage public spaces to ensure an appropriate balance between the amount of space dedicated to private activation use and to public access and mobility. Depending on site conditions, we may allow only one type of merchandise display per business frontage or limit the dimensions of the display to maintain this balance.
- 4.1.5. Although less common than the above two types, merchandise displays may be sited in other public place locations, such as plazas or alleys. SDOT has the

authority to determine the appropriate and applicable standards from this rule to apply to those proposals.

4.2. Frontage Requirements

- 4.2.1. Merchandise displays shall be located within the frontage of the business's associated retail business. The frontage is measured as the width between the lateral property lines or the furthest extents of the tenant space, whichever is narrower.

5. MERCHANDISE DISPLAYS THAT DO NOT REQUIRE A PERMIT

Retail businesses may, without a permit, display on the public place those goods or wares that are offered for sale in their abutting storefront, provided that the siting requirements in this section are met. Merchandise displays that expand beyond these requirements will require a permit (see Section 6). While merchandise displays are positive additions to the public place, we will not allow merchandise displays that adversely impact the traveling public or interfere with the functionality of other street fixtures. If you cannot meet the standards of this section, you are not eligible to have a merchandise display without a permit.

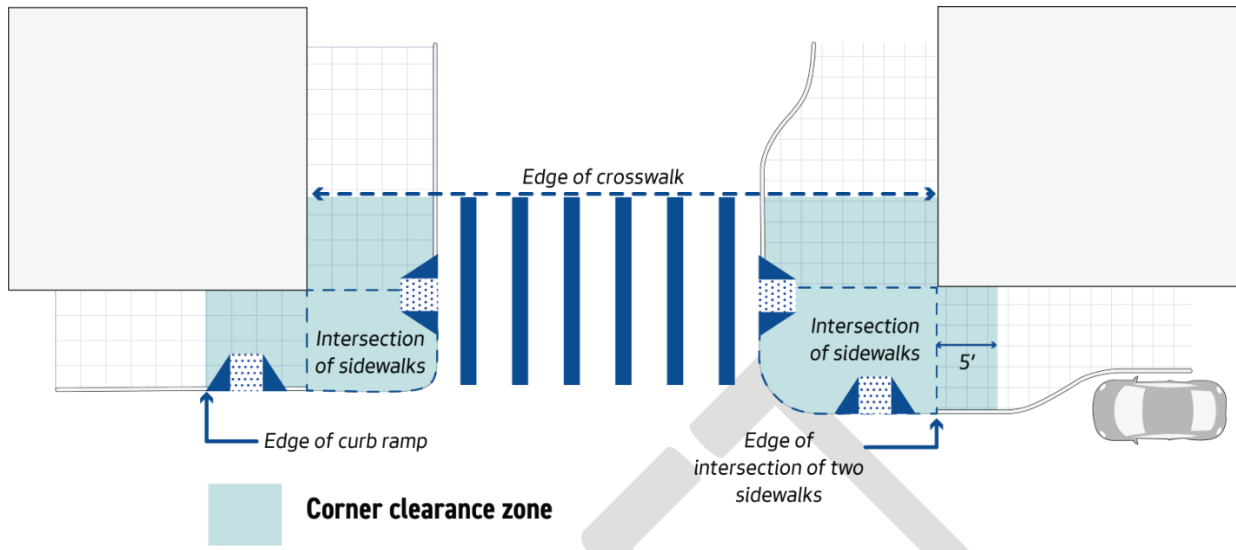
5.1. Siting: Measurement Standards

- 5.1.1. Siting standards in Section 5 apply to the entire merchandise display footprint, as defined in Section 3.7 of this Director's Rule. If these siting standards are unable to be met, you are not eligible for the merchandise display use without a permit. You may be eligible to apply for a permit and request a deviation of standards. Please see Section 6 of this Director's Rule to learn more about the permit option.
- 5.1.2. Siting dimensions are measured from the outside edge of the merchandise display footprint to the outside edge of the nearest pedestrian obstruction in the public place (e.g., tree pit, pay station, bike rack, signpost base, or other objects). If no obstructions exist, dimensions are measured to the back of the curb.

5.2. Siting: Clearance Requirements for Pedestrian Mobility

- 5.2.1. Corner Clearance Zone
 - 5.2.1.1. Merchandise displays shall be sited to provide an unobstructed corner clearance zone, as depicted in Exhibit B for 15.02.042: Corner Clearance Zone and shown in Figure 2 below. (Also see Section 3.2)

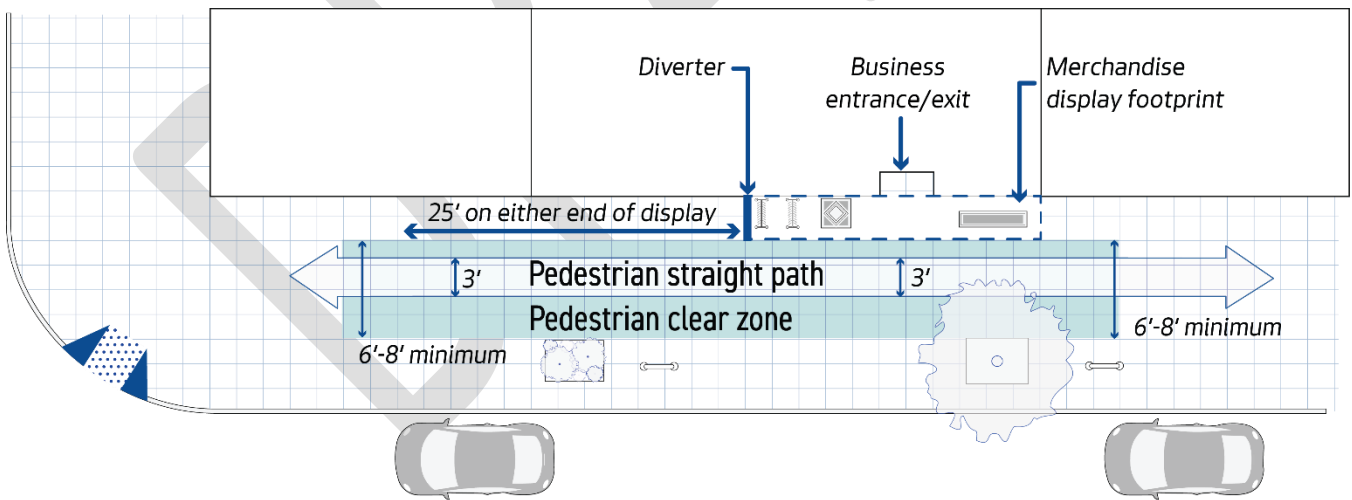
FIGURE 2: CORNER CLEARANCE ZONE



5.2.2. Pedestrian Clear Zone

5.2.2.1. Merchandise displays located on the sidewalk or where pedestrian mobility is impacted shall be sited to provide an unobstructed pedestrian clear zone abutting the entire length of the merchandise display, as shown in Figure 3.

FIGURE 3: PEDESTRIAN CLEAR ZONE



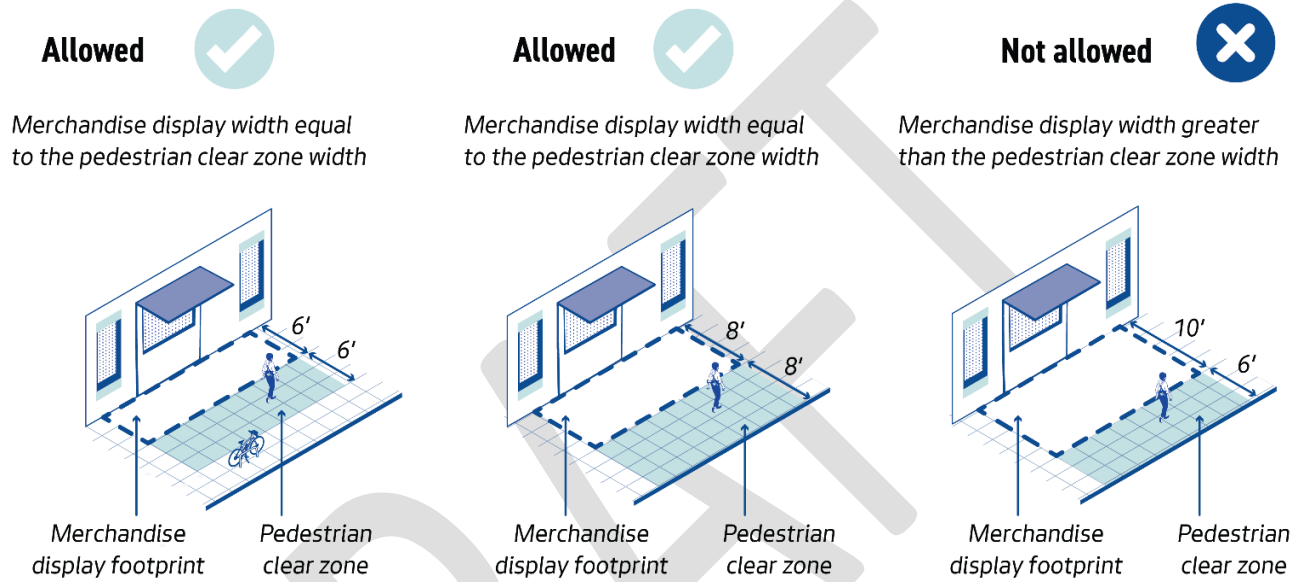
5.2.2.2. The minimum width of the pedestrian clear zone is determined by the street type where the merchandise display is located as defined by the Right-of-Way Improvements Manual or successor rule.

- In no case shall the pedestrian clear zone be less than 6 feet wide.

- Merchandise displays located on the sidewalks of Downtown Streets, as defined by the Right-of-Way Improvements Manual, shall have a pedestrian clear zone at least 8 feet wide.

5.2.2.3. Upon installation, the width of the footprint of the merchandise display on the sidewalk shall not be greater than the width of the pedestrian clear zone, as shown in Figure 4.

FIGURE 4: MERCHANDISE DISPLAY WIDTH



5.2.2.4. Merchandise display shall provide at least one foot of additional pedestrian clear zone clearance on the adjacent sidewalk to account for people stopped and standing at the display if the display is located:

- On a Downtown Street or Downtown Neighborhood Street, as defined by the Right-of-Way Improvements Manual or successor rule;
- In a pedestrian-designated zone, as defined in SMC 23.34.086 or successor code; or
- Adjacent to high-capacity transit zones.

5.2.2.5. The pedestrian clear zone shall be free of vertical obstructions under 8 feet tall, as measured from the public place surface.

5.2.3. Pedestrian Straight Path

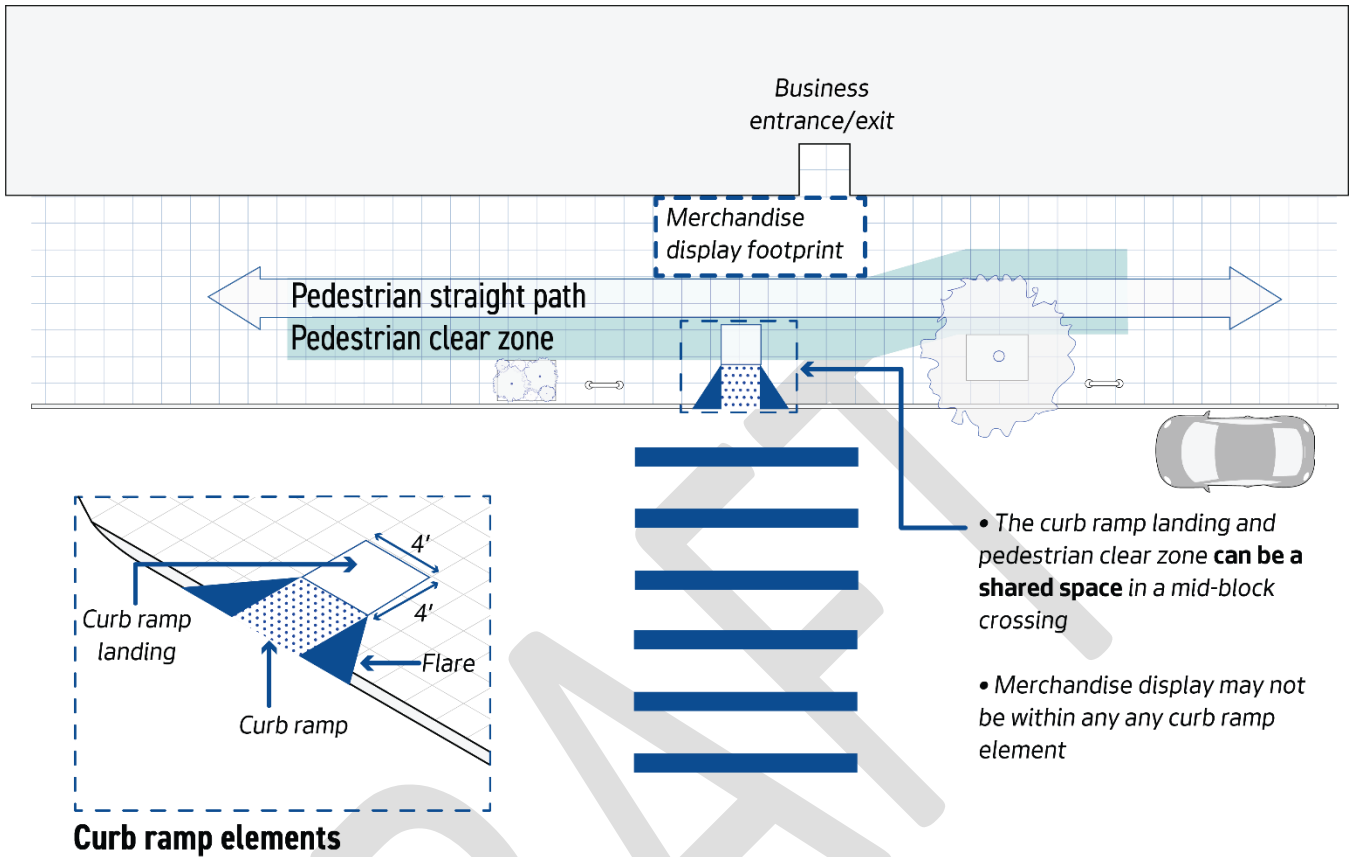
5.2.3.1. Merchandise displays located on the sidewalk or where pedestrian mobility is impacted shall be sited to provide an unobstructed pedestrian straight path, as shown in Figure 3.

- The pedestrian straight path dictates that the pedestrian clear zone shall be generally straight and with no sharp turns that impair pedestrian mobility.
- This 3-foot-wide pedestrian straight path runs along the merchandise display length and extends 25 feet on either end of the merchandise display's boundaries along each block face where the merchandise display is located. It shall be a continuous, straight, and unobstructed corridor within the pedestrian clear zone that provides a clear indication of the path of travel location, usually parallel to the curb, around and in the immediate vicinity of the merchandise display.

5.3. Siting: Setback Requirements for Merchandise Displays

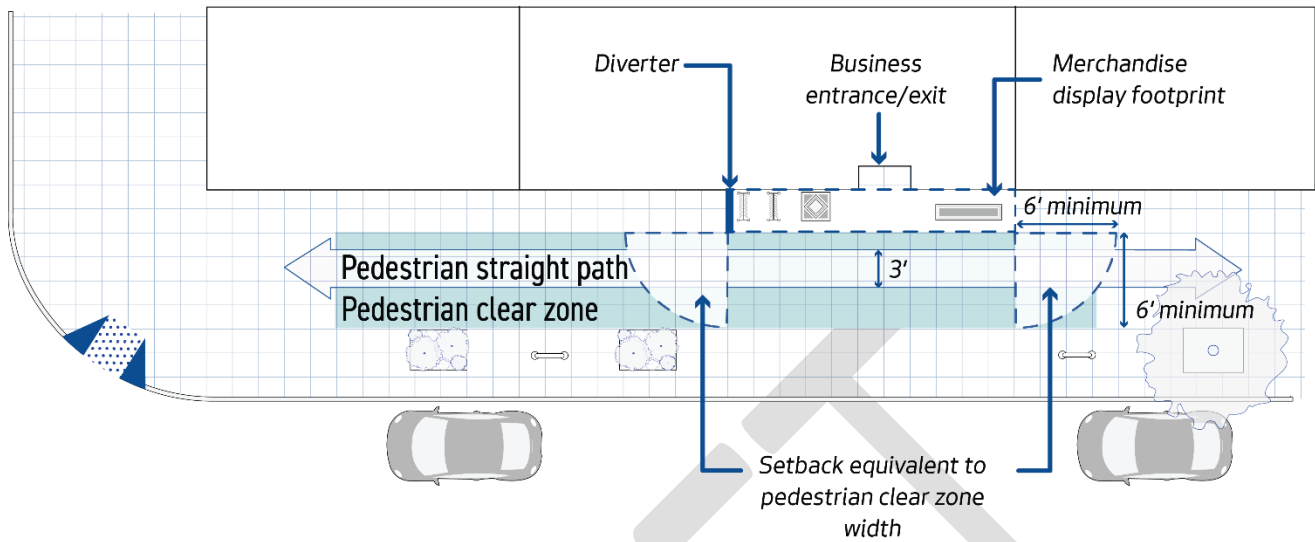
- 5.3.1. Merchandise displays shall comply with clearances required in the Right-of-Way Improvements (ROW) Manual or successor rule. If there is a difference between this Director's Rule and the ROW Manual, the more restrictive standard shall apply.
- 5.3.2. Merchandise displays shall not be sited in a way that inhibits the operation, maintenance, visibility, or functionality of any utilities or street fixtures;
- 5.3.3. Merchandise displays shall be sited:
 - 5.3.3.1. At least 10 feet from alleys and driveways;
 - 5.3.3.2. Not within any curb ramp element, including the curb ramp landing, as shown in Figure 5;

FIGURE 5: CURB RAMP SETBACKS



- 5.3.3.3. At least 5 feet from Fire Department connections and fire escape ladders;
- 5.3.3.4. To maintain an adequate clearance equal to the pedestrian clear zone width from other street fixtures in the public place beyond the merchandise display frontage where pedestrian mobility could be impacted, as shown in Figure 6.

FIGURE 6: REQUIRED CLEARANCE



5.4. Design Standards

- 5.4.1. Merchandise displays may vary from business to business, and can include display furniture and retail items themselves as long as the entirety of merchandise display is located within the allowable display footprint. Some common examples include:
 - 5.4.1.1. Shelving, carts, or tables used to display merchandise;
 - 5.4.1.2. Larger retail items such as furniture, planters, sporting equipment, that can be placed directly on to the sidewalk; and
 - 5.4.1.3. Art displayed on easels.
- 5.4.2. Please note the following considerations when designing your merchandise display (note you may also need a Certificate of Approval for your display when located in a historic district or adjacent to a designated landmark):
 - 5.4.2.1. No objects shall be bolted or affixed to the sidewalk surface.
 - 5.4.2.2. All display equipment must be easy to move in and out daily. No equipment shall be stored in the right-of-way.
 - 5.4.2.3. Display equipment shall be durable and made of surfaces that are easy to clean and maintain.
 - 5.4.2.4. Display equipment with wheels shall have locks.
 - 5.4.2.5. Display equipment shall meet ADA requirements for cane detection or diverters shall be required.
 - 5.4.2.6. Lighting specifically for the display shall not be allowed.
 - 5.4.2.7. Umbrellas shall not be allowed.
 - 5.4.2.8. Display equipment shall be stable.

- 5.4.3. Diverters, if required because the display equipment is not cane-detectable, shall be placed on either end of the display and included within the display footprint and shall meet the following design standards:
 - 5.4.3.1. Be between 30 and 42 inches tall;
 - 5.4.3.2. Extend the entire width of the footprint either as: (a) a single object detectable by cane, as defined in Section 6.3.2; or (b) multiple elements with the spacing requirements established in Section 6.3.9.1;
 - 5.4.3.3. Abut the adjacent building and extend at a 90-degree angle from the building face;
 - 5.4.3.4. Be able to withstand wind, adverse weather conditions, and incidental contact;
 - 5.4.3.5. Not have supports or any elements that protrude beyond the display boundary;
 - 5.4.3.6. Not be bolted to the sidewalk; and
 - 5.4.3.7. Be constructed of materials that are of one or more contrasting colors to the sidewalk surface and to the building to increase visibility for the visually impaired.

5.5. Responsibilities of Display Owner

- 5.5.1. Merchandise displays shall be removed entirely during hours that the business is closed.
- 5.5.2. The merchandise display area shall not be used for any use other than displaying the wares and goods of the adjacent business.
- 5.5.3. The surface of the public place shall not be altered, and fixtures of any kind shall not be installed in the public place.
- 5.5.4. Other than standard product packaging, advertising, logos, or promotional material in any form is prohibited on or in the merchandise display. An exception can be made for small on-premises business signage if consistent with sign regulations (Seattle Municipal Code Title 23) and subject to approval by SDOT.
- 5.5.5. The display shall not contain alcoholic beverages, tobacco, firearms or munitions, any article that a minor is prohibited by law from purchasing, or any material restricted by the Fire Code from direct access or handling by the public.
- 5.5.6. The display owner shall not operate the merchandise display in a way that:
 - 5.5.6.1. Violates the Americans with Disabilities Act;
 - 5.5.6.2. Restricts or interferes with access to abutting properties or utilities;
 - 5.5.6.3. Creates a nuisance or hazard to public health, safety, or welfare; or
 - 5.5.6.4. Creates an obstruction for fire, police, or sanitation vehicles.
- 5.5.7. The display owner is responsible for ensuring that the merchandise display activity does not impede pedestrian mobility, including reducing vertical clearances in the pedestrian clear zone below 8 feet or diverting the pedestrian clear zone or pedestrian straight path. Portable signs, planters, or any other encroachment are prohibited in the pedestrian clear zone or pedestrian straight path.

- 5.5.8. The merchandise display shall not use amplification or noise-making devices and shall comply with Seattle Municipal Code Chapter 25.08 (Noise Code).
- 5.5.9. The merchandise display shall not locate electrical lines overhead or on the ground surface. Lighting specifically for the merchandise display use is not allowed.
- 5.5.10. The display owner shall maintain the merchandise display and adjoining and abutting public place free of all refuse of any kind generated from the operation of their display owner.
- 5.5.11. The display owner is responsible for ensuring that customer queues or displays do not encroach into the roadway or cause pedestrians to divert from the abutting pedestrian clear zone.
- 5.5.12. The display owner must obtain a Certificate of Approval where required if located adjacent to a designated Landmark or in a historic district.
- 5.5.13. The display owner shall temporarily remove the display and clear the public place when ordered by the Director of Transportation, the Chief of Police, the Fire Chief, or other City official. Situations in which this may occur include but are not limited to:
 - 5.5.13.1. To temporarily accommodate access to abutting properties;
 - 5.5.13.2. To provide adequate access to public and private utilities, access panels, valves, and other features; and
 - 5.5.13.3. In the case of a major public event or permitted activity, such as a parade authorized by Chapter 11.25 SMC or special event authorized by Chapter 15.52 SMC.
- 5.5.14. In an emergency, the City may immediately remove the display to preserve public health and safety. If this should occur, the City shall not be responsible for any loss or damages.

6. MERCHANDISE DISPLAYS THAT REQUIRE A PERMIT

While merchandise displays are positive additions to the public place, we will not allow merchandise displays that adversely impact the traveling public or interfere with the functionality of other street fixtures. While the last section discussed merchandise displays allowed without a permit, this section covers displays where a permit is required. Businesses that want to place a display in the furniture zone or in an alternative location such as an alley, curbless street, or other public place, are required to get a permit. Businesses that want to place a display in the frontage zone, but that are unable to meet the standards in Section 5: Merchandise Displays that Do Not Require a Permit, or that wish to propose a display that would not meet those standards, are also required to obtain a permit for this use in the frontage zone.

Furniture zone merchandise displays must adhere to the standards listed in this section of this Director's Rule.

6.1. Siting: Measurement Standards

- 6.1.1. Siting standards in Section 6 apply to the entire merchandise display footprint, which includes any associated elements located in the public place that extend beyond the merchandise display's operational space.

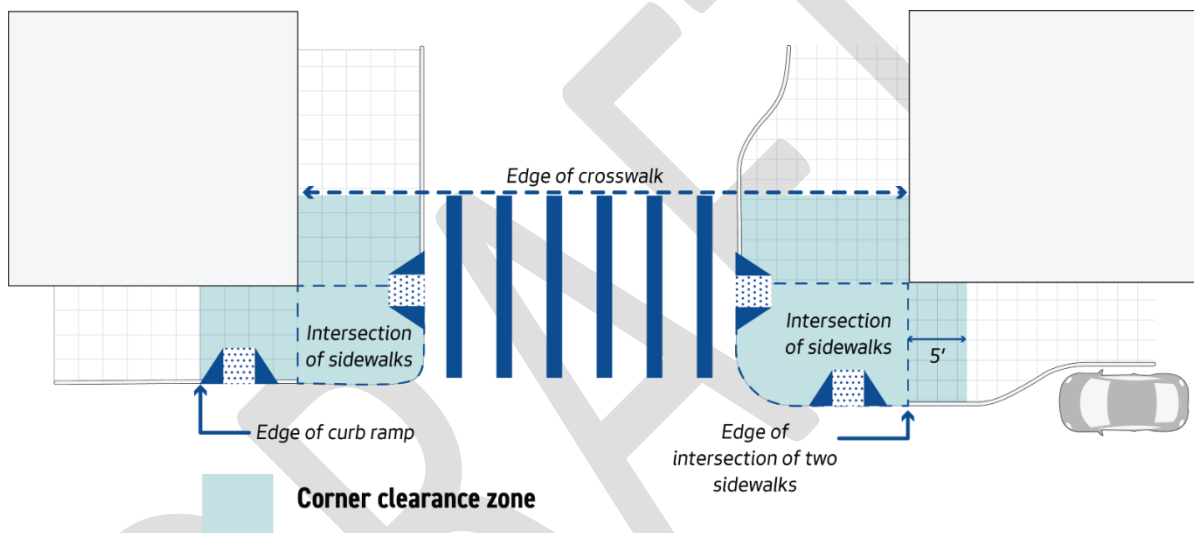
6.1.2. Siting dimensions are measured from the furthest extent of the merchandise display footprint including associated elements into the public place to the outside edge of the nearest obstruction (e.g. tree pit, pay station, bike rack, signpost base, or other objects).

6.2. Siting: Clearance Requirements for Pedestrian Mobility

6.2.1. Corner Clearance Zone

6.2.1.1. Merchandise display shall be sited to provide an unobstructed corner clearance zone, as depicted in Exhibit B for 15.02.042: Corner Clearance Zone and in Figure 7 below. (See Section 3.2)

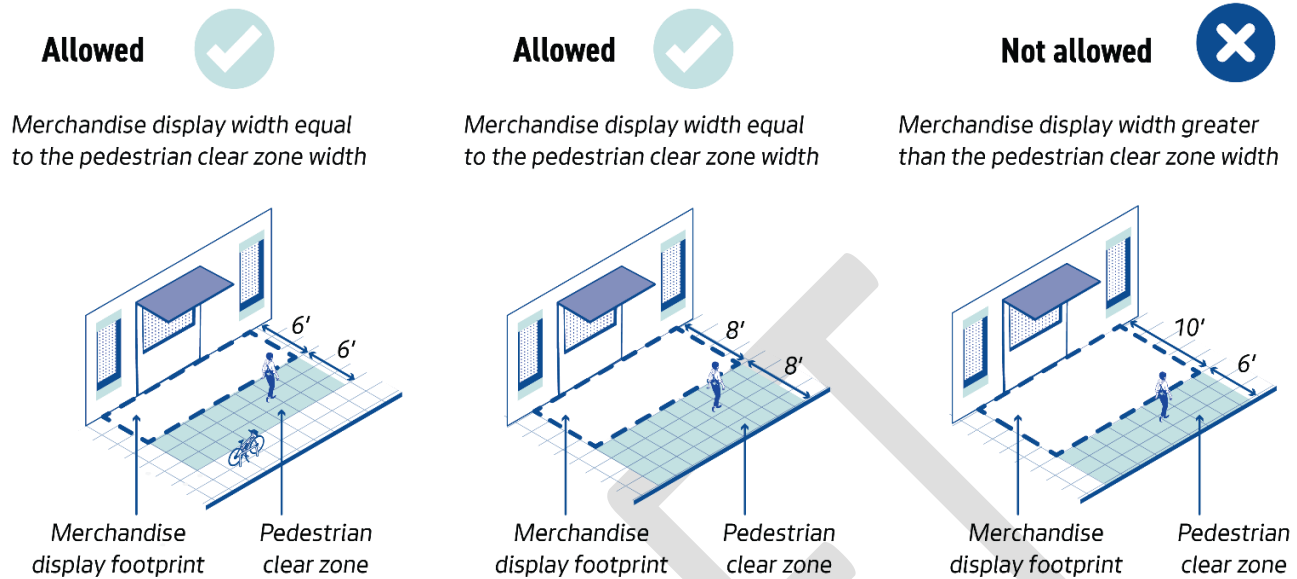
FIGURE 7: CORNER CLEARANCE ZONE



6.2.2. Pedestrian Clear Zone

6.2.2.1. Merchandise displays located on the sidewalk or where pedestrian mobility is impacted shall be sited to provide an unobstructed pedestrian clear zone abutting the entire length of the merchandise display, as shown in Figure 8.

FIGURE 9: MERCHANDISE DISPLAY WIDTH



6.2.2.5.

Merchandise displays shall provide at least one foot of additional pedestrian clear zone clearance on the adjacent sidewalk to account for people stopped and standing at the display if the display is located:

- On a Downtown Street or Downtown Neighborhood Street, as defined by the Right-of-Way Improvements Manual or successor rule;
- In a pedestrian-designated zone, as defined in SMC 23.34.086 or successor code; or
- Adjacent to high-capacity transit zones.

6.2.2.6.

The pedestrian clear zone shall be free of vertical obstructions under 8 feet tall, as measured from the public place surface.

6.2.3.

Pedestrian Straight Path

6.2.3.1.

Merchandise displays located on the sidewalk or where pedestrian mobility is impacted shall be sited to provide an unobstructed pedestrian straight path, as shown in Figure 8.

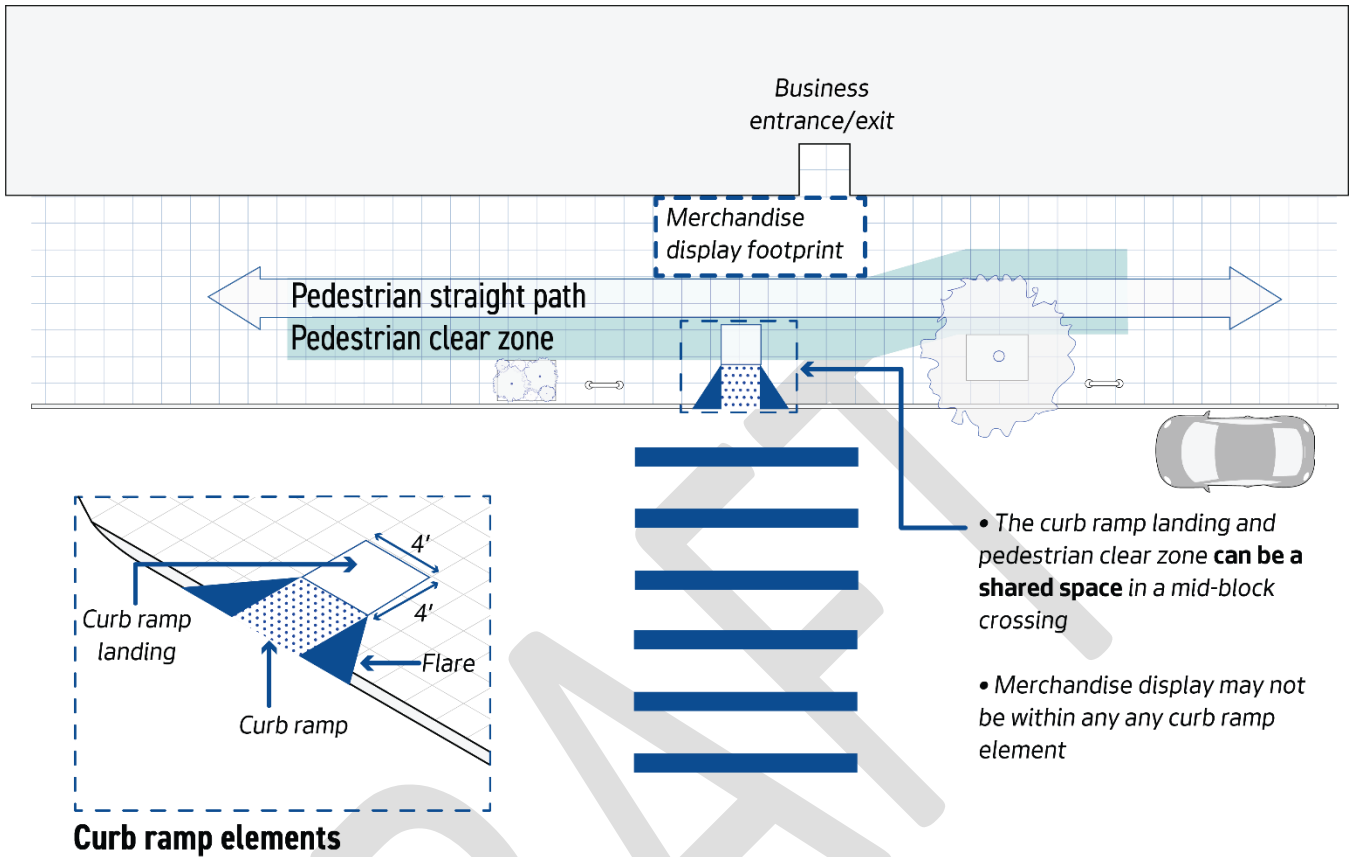
- The pedestrian straight path dictates that the pedestrian clear zone shall be generally straight and with no sharp turns that impair pedestrian mobility.
- This 3-foot-wide pedestrian straight path runs along the merchandise display length and extends 25 feet on either end of the merchandise display's boundaries along each block face where the merchandise display is located. It shall be a

continuous, straight, and unobstructed corridor within the pedestrian clear zone that provides a clear indication of the path of travel location, usually parallel to the curb, around and in the immediate vicinity of the merchandise display.

6.3. Siting: Setback Requirements for Merchandise Displays

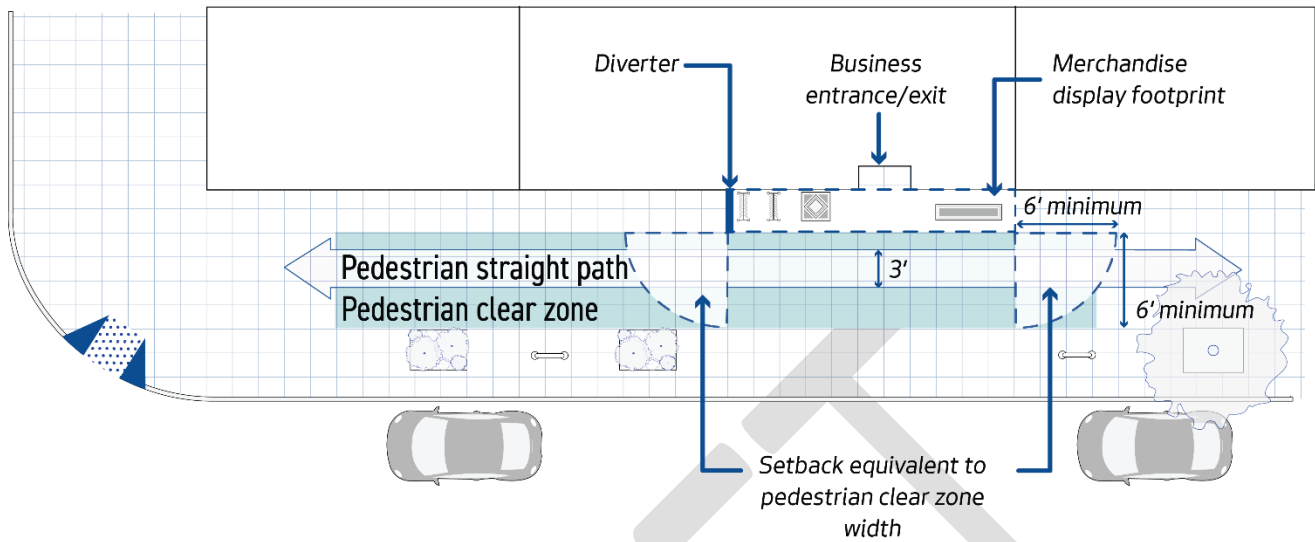
- 6.3.1. Merchandise displays shall comply with clearances required in the Right-of-Way Improvements Manual or successor rule, except for setbacks from the pedestrian clear zone;
- 6.3.2. Merchandise displays shall not be sited:
 - 6.3.2.1. In a way that inhibits the operation, maintenance, visibility, or functionality of any utilities or street fixtures;
 - 6.3.2.2. In a tree pit, unless approved by SDOT Urban Forestry;
 - 6.3.2.3. Adjacent to bus zones, commercial vehicle loading zones, and designated food-vehicle or vending zones; and
 - 6.3.2.4. Adjacent to passenger loading zones or designated disabled space (ADA) unless approved by SDOT.
- 6.3.3. Merchandise displays shall not be sited in a way that inhibits the operation, maintenance, visibility, or functionality of any utilities or street fixtures.
- 6.3.4. Merchandise displays shall be sited:
 - 6.3.4.1. At least 5 feet from alleys and driveway aprons for displays located in the furniture zone;
 - 6.3.4.2. At least 10 feet from alleys and driveway aprons for displays located in the frontage zone;
 - 6.3.4.3. At least 10 feet from the corner clearance zone;
 - 6.3.4.4. Not within any curb ramp element, including the curb ramp landing, as shown in Figure 10;

FIGURE 10: CURB RAMP SETBACKS



- 6.3.4.5. To provide adequate access to public and private utilities, access panels, valves, and other features. Clearances required in the Right-of-Way Improvements Manual or successor rule must be met unless an alternative dimension is approved by the relevant public or private utility agency. Restricted access to any public utility shall be approved by the relevant public or private utility agency and SDOT;
- 6.3.4.6. To maintain an adequate clearance equal to the pedestrian clear zone width from other street fixtures in the public place beyond the merchandise display frontage where pedestrian mobility could be impacted, as shown below in Figure 11;

FIGURE 11: REQUIRED CLEARANCE



- 6.3.4.7. If in the furniture zone, and where on-street parking exists, a 4-foot-wide clear path-of-travel for every 16 lineal feet of sidewalk length is required to allow for pedestrian access from the curbspace to the sidewalk area. This sidewalk access standard must consider other existing furniture zone amenities, fixtures, and infrastructure;
- 6.3.4.8. To provide adequate clearance from the back of curb, cafes must meet clearances from back of curb as required in the Right-of-Way Improvements Manual. When the adjacent use is parking, a minimum 3-foot-wide setback is required. SDOT may require additional width when the display will be approved on a block without designated disabled parking (ADA), adjacent to a passenger load zone (when approved by SDOT), or adjacent to a shuttle or charter bus zone; and
- 6.3.4.9. A least 4 feet from the back of curb when the curb use is disabled person parking, shuttle bus zone, and charter bus zone.

6.4. Siting: Applying the Siting Standards

- 6.4.1. SDOT has authority to modify the dimension standards outlined in this rule based on site-specific conditions (SMC 15.15.040), including, but not limited to:
 - 6.4.1.1. Areas with transit-loading zones, public plazas, art installations, and adjacent land use or access points with high stationary pedestrian use of the sidewalk;
 - 6.4.1.2. Areas with high peak-period pedestrian volumes, high event-period pedestrian volumes, or temporary demands on the sidewalk like permitted free-floating mobility devices;
 - 6.4.1.3. Areas with approved street design plans or street concept plans that call for additional space for pedestrians; and

6.4.1.4. Areas where the proposed merchandise display placement would divert pedestrian traffic to lower-quality sidewalk surfaces or surfaces that do not meet ADA accessibility requirements.

6.4.2. Applicant-Requested Deviations from Siting Standards

6.4.2.1. The Director of Transportation may grant a deviation from the following standards upon determining adequate space is provided for pedestrian passage, traffic management, and all other public-use purposes (SMC 15.04.35.E):

- Corner clearance zone (as described in Section 6.2.1);
- Pedestrian clear zone (as described in Section 6.2.2);
- Pedestrian straight path (as described in Section 6.2.3); and
- Setbacks (as described in Sections 6.3).

6.4.2.2. Applicants may request consideration of reduced dimensions to the standards established in Section 6.4.2.1 by submitting a deviation request as established in the Right-of-Way Improvements Manual or successor rule. In addition to the deviation request submittal requirements, SDOT may require additional information necessary to evaluate the deviation request. Additional review time and review fees may be required.

6.4.2.3. SDOT may evaluate the deviation request to determine if a merchandise display with the proposed deviation is a suitable use for the proposed site and will not unreasonably infringe on use of the public place by the traveling public. In making the determination, we may consider factors including, but not limited to:

- The alignment of the proposal with the intent of the applicable standard;
- The pedestrian volume along the block face and the impact of the display on pedestrian activity;
- The degree to which the proposal constitutes a grant of special privilege inconsistent with the limitations put upon other properties in the vicinity;
- How the proposal provides for or limits universal access requirements;
- The local context, including the degree to which underinvestment in infrastructure due to past and present inequitable funding and planning practices have resulted in conditions which make it impossible or challenging to meet standards; and
- How the proposal compares to the minimum necessary deviation to afford relief.

6.5. Design Standards

6.5.1. Merchandise displays may vary from business to business, and can include display furniture and retail items themselves as long as the entirety of merchandise display

is located within the allowable display footprint. Some common examples may include:

- 6.5.1.1. Shelving, carts, or tables used to display merchandise
- 6.5.1.2. Larger retail items such as furniture, planters, sporting equipment, that can be placed directly on to the sidewalk
- 6.5.1.3. Art displayed on easels
- 6.5.2. Please note the following design considerations when designing your merchandise display (note you may also need a Certificate of Approval for your display when located in a historic district or adjacent to a designated landmark):
 - 6.5.2.1. No objects shall be bolted or affixed to the sidewalk surface;
 - 6.5.2.2. All display equipment must be easy to move in and out daily. No equipment shall be stored in the right-of-way;
 - 6.5.2.3. Display equipment shall be durable and made of surfaces that are easy to clean and maintain;
 - 6.5.2.4. Display equipment with wheels shall have locks;
 - 6.5.2.5. Display equipment shall meet ADA requirements for cane detection or diverters shall be required;
 - 6.5.2.6. Lighting specifically for the display shall not be allowed;
 - 6.5.2.7. Umbrellas shall not be allowed; and
 - 6.5.2.8. Display equipment shall be stable.
- 6.5.3. Diverters, if required because the display equipment is not cane-detectable, shall be placed on either end of the display and included within the display footprint and shall meet the following design standards:
 - 6.5.3.1. Be between 30 and 42 inches tall;
 - 6.5.3.2. Extend the entire width of the footprint either as: (a) a single object detectable by cane, as defined in Section 6.3.2; or (b) multiple elements with the spacing requirements established in Section 6.3.9.1;
 - 6.5.3.3. Abut the adjacent building and extend at a 90-degree angle from the building face;
 - 6.5.3.4. Be able to withstand wind, adverse weather conditions, and incidental contact;
 - 6.5.3.5. Not have supports or any elements that protrude beyond the display boundary;
 - 6.5.3.6. Not be bolted to the sidewalk; and
 - 6.5.3.7. Be constructed of materials that are of one or more contrasting colors to the sidewalk surface and to the building to increase visibility for the visually impaired.

6.6. Application Review Process

SDOT provides current application requirements, process, and timeline on the SDOT Permit website. This section details some of the critical components of application review and consideration

6.6.1. ADA Requirements

Our review of merchandise display applications to determine compliance with the Americans with Disabilities Act (ADA) is limited to Title II of the ADA, which encompasses the requirements for state and local governments. Under this review, our focus is to determine that the public place around the display is accessible and usable for people living with disabilities. The display permittee has independent obligations under Title III of the ADA.

We do not review a display application for compliance with Title III, which applies to public accommodations and commercial facilities. Display permittees are solely responsible for complying with Title III of the ADA, and all other federal and state accessible design standards. Permittees are obligated to offer accommodations that provide an equal opportunity for individuals with disabilities to enjoy the goods and services offered to everyone. SDOT does not review the ADA suitability of display equipment or placement within the footprint. Approval of the Street Use merchandise display permit does not establish compliance with ADA or other state and local accessibility regulations.

6.6.2. Public Notice

6.6.2.1. We may require applicants provide public notice of Street Use application in a form approved by SDOT. Notice is intended to inform the public of and solicit comments on the proposed use. (SMC 15.04.030)

6.6.2.2. When notice is required, a Street Use merchandise display permit shall not be issued until after the close of the public notice period. In making the decision to issue a permit, we will consider public comments that are related to the SDOT Director's authority to regulate vending under Chapter 15.17, Title 15 of the Seattle Municipal Code, and other applicable law.

6.6.3. Historic and Landmark District Review

6.6.3.1. If a display is located adjacent to a historic landmark or within a historic district, a Certificate of Approval may be required and must be received prior to issuance of the SDOT permit.

6.6.4. Permit Conditions

6.6.4.1. SDOT may condition the Street Use merchandise display permit to address:

- Design standards and placement of associated elements;
- Hours and dates of merchandise display operation and public place occupation;
- Impacts associated with merchandise display activity from lighting, noise, or the placement of signage, furniture, or equipment;

- Need for repairs or improvements to the public place to accommodate the merchandise display or establish ADA-compliant access around the merchandise display;
- Pedestrian passage, traffic management, and any public-use purpose; and
- Using electrical cords, or other utility installations to meet the requirements of Section 6.3.8.

6.7. Requests for Review and Reconsideration

A request for review or reconsideration of a merchandise display permit decision may be made to the SDOT Director by filing a written request within ten calendar days of the date of the SDOT decision. (SMC 15.04.112)

6.8. Permit Administration

- 6.8.1. All Street Use permits are of a temporary nature, vest no permanent rights, and are revocable. (SMC 15.04.070)
- 6.8.2. If an approved merchandise display has not been set up within 6 months of permit issuance, SDOT may close the permit. (SMC 15.04.070).
- 6.8.3. The Director may modify the conditions of an existing Street Use merchandise display permit if determined necessary for safety, traffic management, and any other public-use purpose, after providing the permittee with written notice 10 days before modifying the Street Use merchandise display permit. (SMC 15.04.070)
- 6.8.4. Permit Renewal
- 6.8.4.1. A Street Use merchandise display permit may be renewed provided:
- The merchandise display renewal fees are paid;
 - The permittee and merchandise display follow all permit conditions;
 - The business ownership has remained the same; and
 - The space is not needed for transportation, utility, or any other public-use purpose. (SMC 15.16.012.B)
- 6.8.5. Permit Expiration
- 6.8.5.1. A Street Use merchandise display permit expires if: the business changes ownership; the Street Use permit duration expires; or Street Use permit fees are not paid as required by subsection 15.04.074.D. (SMC 15.15.020)
- 6.8.5.2. The permittee shall remove all permit-related encroachments from the public place when the Street Use permit expires.

6.9. Permittee Responsibilities for Merchandise Display Operation

- 6.9.1. Allowable Use of Permitted Area
- 6.9.1.1. Merchandise displays must be removed entirely during hours that the business is closed unless otherwise approved by SDOT.

- 6.9.1.2. The merchandise display area may not be used for any use other than displaying the wares and goods of the adjacent business.
- 6.9.1.3. The surface of the public place shall not be altered, and fixtures of any kind shall not be installed in the public place.
- 6.9.1.4. Other than standard product packaging, advertising, logos, or promotional material in any form is prohibited on or in the merchandise display. An exception can be made for small on-premises business signage if consistent with sign regulations (Seattle Municipal Code Title 23) and subject to approval by SDOT.
- 6.9.1.5. To maintain clear sight lines for traffic, a merchandise display located within 30 feet of an approach to an intersection shall not place or install vertical elements that extend higher than what was approved in the permit.
- 6.9.2. Permittee Operational Responsibilities
- 6.9.2.1. The permittee shall keep the permit on site and have it available to view upon request.
- 6.9.2.2. The permittee shall not operate the merchandise display in a way that:
- Violates the Americans with Disabilities Act;
 - Restricts or interferes with access to abutting properties or utilities;
 - Creates a nuisance or hazard to public health, safety, or welfare; or
 - Creates an obstruction for fire, police, or sanitation vehicles.
- 6.9.2.3. The permittee is responsible for ensuring that the merchandise display activity does not impede pedestrian mobility, including reducing vertical clearances in the pedestrian clear zone below 8 feet or diverting the pedestrian clear zone or pedestrian straight path. Portable signs, planters, or any other encroachment are prohibited in the pedestrian clear zone or pedestrian straight path.
- 6.9.2.4. The permittee shall temporarily remove the display and clear the public place when:
- The Director of Transportation deems it necessary for transportation mobility or public safety purposes or to temporarily accommodate access to abutting properties;
 - To provide adequate access to public and private utilities, access panels, valves, and other features.
 - Ordered by the Director of Transportation, the Chief of Police, the Fire Chief, or other City official;
 - In the case of a major public event or permitted activity, such as a parade authorized by SMC Chapter 11.25 or special event authorized by SMC Chapter 15.52 . SDOT or the City shall make this request at least 24 hours before the required removal time;

- In an emergency, the City may immediately remove the display to preserve public health and safety. If this should occur, the City shall not be responsible for any loss or damages.

6.9.2.5. Amplified sound shall not be used unless authorized by permit and in compliance with Chapter 25.08.

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