



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5816
February 16, 2021
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5816: An emergency ordinance establishing interim development regulations to allow more outdoor seating for eating and drinking establishments and setting a Public Hearing date.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Adopt Ordinance No. 21C-03.	<input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Sarah Bluvus, Economic Development Coordinator
COUNCIL LIAISON:	Jake Jacobson Craig Reynolds
EXHIBITS:	1. Ordinance No. 20C-17 2. Ordinance No. 21C-03
CITY COUNCIL PRIORITY:	4. Provide emergency response services related to the COVID-19 Pandemic.

AMOUNT OF EXPENDITURE	\$ N/A
AMOUNT BUDGETED	\$ N/A
APPROPRIATION REQUIRED	\$ N/A

SUMMARY

Ordinance No. [20C-17](#) (see Exhibit 1) was adopted on August 4, 2020 and established interim development regulations to allow more outdoor seating for eating and drinking establishments. The ordinance expired on February 4, 2021. To reinstate these interim development regulations for another 6-month period, the City Council is asked to adopt Ordinance No. 21C-03 (see Exhibit 2) as an emergency ordinance (approval by a majority plus one of the whole membership of the City Council will be needed). Ordinance No. 21C-03 will also set a Public Hearing date of April 6, 2021 as required by statute for an interim ordinance. Finally, instead of referencing a specific Governor's plan by name (which has and may again change), the ordinance updates references to any Governor's plan related to a declared COVID-19 emergency under which drinking and eating establishments are limited to less than 75% indoor "sit-down" service capacity.

BACKGROUND

Ordinance 20C-17 allowed existing eating and drinking establishments temporary use of public Right-of-Way and private parking space to expand their outdoor footprint. This Ordinance was adopted in response to reopening guidelines placed on these businesses under the Governor's "Safe Start" plan. One local establishment took advantage of the opportunity to use public Right-of-Way to create outdoor seating and at least three businesses expanded outdoor seating areas into private parking space.

On January 11, 2021, Governor Inslee’s “Healthy Washington – Roadmap to Recovery” plan went into effect and required businesses to return to stricter measures. On February 1, 2021, King County entered Phase 2 of the Healthy Washington plan and eating and drinking establishments can now operate indoor dining at 25% capacity.

EMERGENCY ORDINANCE TO FACILITATE OUTDOOR SEATING

Governor Inslee has not announced additional phases or a new plan to follow the Healthy Washington – Roadmap to Recovery plan. Because the plan limits indoor dining, staff believe it is still necessary to provide measures that allow additional outdoor space for local eating and drinking establishments. Like its predecessor, Ordinance No. 21C-03 enables the following:

1. Temporarily allows existing eating and drinking establishments to obtain a permit to operate on public property with the approval of the Code Official (interim amendment to [MICC 19.06.050](#) Commerce on public property); and
2. Temporarily adjusts parking requirements in commercial areas, enabling existing eating and drinking establishments to work with landlords/property owners to repurpose private, off-street parking for temporary outdoor seating.

The estimated cost for review of the commerce on public property permit is \$347.63. This one-time permit fee is based on a standard hourly rate for Right-of-Way permit review. The fee amount also aligns with fees identified by other neighboring communities (e.g. Bothell, Redmond, Renton, and Tukwila) offering similar solutions to assist small businesses.

Ordinance 21C-03 will remain in effect for six months following adoption. It also sets a Public Hearing date for April 6, 2021, at which time the City Council will receive public testimony and make amendments to the Ordinance if desired. Based on continued need, the City Council may also consider future renewal of these interim development regulations in up to 6-month intervals.

NEXT STEPS

Upon adoption of this Ordinance, staff will alert the business community that the temporary permit is available through a variety of channels, including the City’s business outreach list (900+ e-mail contacts) and the Chamber of Commerce channels (400+ e-mail contacts). Community Planning and Development staff will alert previous permit-holders of the need to renew their permit and are prepared to facilitate this process as quickly as possible. In addition to the commerce on public property permit, businesses will also be required to provide a certificate of insurance and indemnification (hold harmless).

RECOMMENDATION

1. Suspend the City Council Rules of Procedure 6.3, requiring a second reading of an ordinance.
2. Adopt Ordinance No. 21C-03 establishing interim development regulations to allow more outdoor seating for eating and drinking establishments and setting a Public Hearing date of April 6, 2021.