

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-07**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING TITLE 19 OF THE MERCER ISLAND CITY CODE TO ADOPT INTERIM REGULATIONS RELATED TO (1) OUTDOOR SEATING FOR EATING AND DRINKING ESTABLISHMENTS, AND (2) TEMPORARY USES AND STRUCTURES; PROVIDING FOR SEVERABILITY; ADOPTING A WORK PLAN; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Mercer Island adopted Ordinance No. 20C-17 on August 4, 2020, enacting interim zoning and official controls to allow existing eating and drinking establishments to expand outdoor seating into available public and private space in order to provide safer dining conditions for patrons during the COVID-19 pandemic; and

WHEREAS, the City Council renewed the interim regulations for outdoor dining on February 16 under Ordinance Number 21C-03, July 6 under Ordinance Number 21C-16, and December 7, 2021 under Ordinance Number 21C-25, and June 20, 2024 under Ordinance Number 23C-09; and

WHEREAS, the City Council wishes to continue promoting local economic recovery and to make eating and drinking establishments safer to operate by leveraging available private and public space to be used as additional outdoor areas for eating and drinking; and

WHEREAS, the Washington State Liquor and Cannabis Board adopted permanent rules for outdoor alcohol service as amendments to WAC 314-03-200 on January 31, 2024, effective March 2, 2024; and

WHEREAS, the Mercer Island Country Club submitted an application for a Docket Request in fall of 2023 to consider allowing air-supported temporary structures as a temporary use; and

WHEREAS, the City of Mercer Island submitted an application for a Docket Request in fall of 2023 to consider establishing temporary use and structure provisions; and

WHEREAS, the City Council approved Resolution 1655 on December 5, 2023 docketing both the Mercer Island Country Club and the City of Mercer Island requests; and

WHEREAS, the City Council directed City Staff to draft interim regulations for temporary uses and structures and renew the interim regulations for outdoor dining at its April 2, 2024 regular business meeting; and

WHEREAS, City Staff drafted the necessary amendments to the MICC to achieve the City Council direction including a proposed new MICC 19.06.130, permitting temporary uses or structures on real property not owned by the City of Mercer Island referred to as “private property”; and

WHEREAS, the proposed amendments would benefit the public welfare by ensuring that temporary uses and structures on private property are regulated to allow socially beneficial temporary uses while placing conditions on other, more intense temporary uses; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to pass an interim zoning and official control ordinance for up to one year, provided a work plan is developed for related studies providing for such a longer period; and

WHEREAS, the City Council held a public hearing on June 4, 2024 which satisfies the requirements of RCW 35A.63.220 and RCW 36.70A.390.

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

Section 1. Whereas Clauses Adopted. The “Whereas Clauses” set forth in the recital of this Ordinance are hereby adopted as the preliminary findings and conclusions of the City Council for passing this ordinance.

Section 2. Amendment of MICC 19.06.050. MICC 19.06.050 is amended and adopted as shown in Exhibit A.

Section 3. Authorization to Use Private Parking Areas for Outdoor Dining. Subject to the provisions of this ordinance, the City grants temporary permission for existing eating and drinking establishments at Mercer Island to temporarily utilize private parking areas for outdoor food and beverage service, provided the private parking area is immediately adjacent to the eating and drinking establishment, and the following conditions are met:

- A. An eating and drinking establishment may provide food and beverage service in a private parking area only while this ordinance remains in effect.
- B. Use of any portion or percentage of private off-street parking areas for outdoor food and beverage service shall require the landlord’s / property owner’s approval. Nothing in this ordinance compels a landlord / property owner to permit a tenant to expand its business to the exterior.
- C. This ordinance authorizes only temporary use of private areas otherwise restricted for parking purposes. Nothing in this ordinance authorizes permanent improvements or interior expansions.

Section 4. Minimum Parking Regulations Waived. In order to effectuate the purpose of Section 3 above, but only to the extent necessary to so effectuate and under the terms and conditions set forth in this ordinance, minimum parking regulations normally applicable to eating and drinking establishments are waived to enable such uses to serve patrons in adjoining parking spaces for the duration of this ordinance.

Section 5. Amendment of MICC and Establishment of New Code Section 19.06.130. A new section MICC 19.06.130 is adopted as shown in Exhibit B.

Section 6. Amendment of MICC 19.15.030. MICC 19.15.030 is amended and adopted as shown in Exhibit C.

Section 7. Work Plan adopted. The Work Plan attached as Exhibit D is adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390 and indicates the City's plans for considering permanent regulations during the pendency of the interim regulations.

Section 8. Duration of Interim Zoning and Official Controls. The interim zoning and official controls approved by this ordinance shall continue in effect for an initial period of one year from the effective date, unless repealed, extended or modified by the City Council pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 9. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

Section 10. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON JUNE 18, 2024.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: XX