



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 5737**  
**August 4, 2020**  
**Regular Business**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 5737: Emergency Ordinance to Temporarily Allow Private Parking and Right-of-Way Use by Businesses to Meet Safe Start Plan Guidelines	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
<b>RECOMMENDED ACTION:</b>	Waive second reading, and adopt Ordinance No. 20C-17	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	City Manager
<b>STAFF:</b>	Bio Park, City Attorney; Patrick Yamashita, Interim Community Planning & Development Director; Sarah Bluvas, EOC Small Business Liaison
<b>COUNCIL LIAISON:</b>	Jake Jacobson                      Craig Reynolds
<b>EXHIBITS:</b>	1. Ordinance No. 20C-17
<b>CITY COUNCIL PRIORITY:</b>	3. Implement an economic development program.

<b>AMOUNT OF EXPENDITURE</b>	\$ N/A
<b>AMOUNT BUDGETED</b>	\$ N/A
<b>APPROPRIATION REQUIRED</b>	\$ N/A

### SUMMARY

This agenda bill addresses the need to allow additional outdoor seating spaces to assist Mercer Island eating and drinking establishments impacted by the COVID-19 emergency.

#### BACKGROUND

On May 31, 2020, Governor Jay Inslee's "Stay Home, Stay Healthy" order ended, and the state moved into Safe Start – Washington's Phased Reopening plan. This phased approach allows for businesses to reopen with modified operations, including physical distancing measures to minimize the spread of the coronavirus. King County entered Phase 2 of the Safe Start plan on June 19, 2020, which allowed reopening of restaurants, taverns, and other eating and drinking establishments with limited indoor capacity.

Some Mercer Island businesses have partially reopened by significantly modifying their operations to meet the Phase 2 guidelines. However, two recent announcements from the governor's office further restrict their ability to continue operating:

1. On July 23, 2020, Governor Inslee and Secretary of Health John Wiesman issued additional restrictions to the Phase 2 guidelines, targeting activities that data have shown create a higher risk of COVID-19 exposure. The additional restrictions that impact Mercer Island eating and drinking establishments currently open during Phase 2 include:

- Limiting indoor dining at restaurants to members of the same household (until Phase 4)
  - Prohibiting bar-area seating (all phases)
  - Prohibiting indoor service at taverns, breweries, wineries, and distilleries (until Phase 4)
2. On July 28, 2020, Governor Inslee announced an indefinite pause to the Safe Start plan, which prevents King County from advancing beyond Phase 2 until further notice.

### **EMERGENCY ORDINANCE TO FACILITATE OUTDOOR SEATING**

Through ongoing discussions with the Mercer Island Chamber of Commerce and local business owners/advocates, staff have identified additional outdoor space as a primary need for local eating and drinking establishments to reopen and operate under the Safe Start guidelines. With the additional restrictions leveled on businesses in Phase 2 as well as the paused timeline for advancing phases, there is growing concern in the local business community that delays in making outdoor space available will create an unnecessary barrier to safely reopening.

To accommodate the need for outdoor space, staff recommend temporarily allowing eating and drinking establishments the use of public Right-of-Way and private parking space to expand their outdoor footprint during the Safe Start plan. Facilitating this temporary use requires adoption of Ordinance No. 20C-17 (Exhibit 1), which 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 19.06.050 Commerce on public property)
2. Temporarily adjusts parking requirements in commercial areas on the Island, 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. If the City Council would like to waive the fee for this permit, they may direct staff to utilize funds from the King County Coronavirus Relief Fund Economic Development for Cities grant (i.e. King County CARES Act funding) to cover the cost of the permit.<sup>1</sup>

The ordinance will remain in effect for six months following adoption or until King County is authorized to move into Safe Start Phase 4 (whichever deadline is met first). The City may extend the ordinance pending continued need in the business community. The associated commerce on public property permit will also remain valid for the duration of the ordinance.

### **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 (800+ e-mail contacts) and the Chamber of Commerce channels (400+ e-mail contacts). Community Planning and Development staff are prepared to expedite review of these permit applications to enable businesses to begin offering outdoor seating 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).

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<sup>1</sup> Staff will present a full recommendation for expending the City's King County CARES Act funding on September 1.

## **RECOMMENDATION**

Waive second reading of Ordinance No. 20C-17 pursuant to Council Rules 6.3 and 10.1.

Adopt Ordinance No. 20C-17 providing temporary measures to allow more outdoor seating for eating and drinking establishments on City rights-of-way and on “off-street” private commercial parking areas.

Authorize staff to waive the permit fee and utilize King County CARES Act funding to cover the cost.