



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6808
November 18, 2025
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6808: Permanent Regulations for Temporary Uses and Structures, Including Outdoor Dining (Ordinance No. 25C-26 Second Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Adopt Ordinance No. 25C-26.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, CPD Director Molly McGuire, Senior Planner
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 25C-26 2. Strikethrough/Underline Regulations 3. Interim Regulations / Planning Commission Recommendation Matrix
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda bill is to conduct the second reading of Ordinance No. 25C-26 (Exhibit 1) to amend the Mercer Island City Code (MICC) to establish permanent regulations for temporary uses and structures, including outdoor dining, in place of the interim regulations which were originally adopted on June 4, 2024 under Ordinance No. 24C-07 and renewed for an additional 6-months on May 20, 2025 under Ordinance No. 25C-07.

- Temporary uses and structures are development or activities that take place on a property for a limited duration. They can include a wide range of development and activities from garage sales to outdoor festivals.
- Prior to 2024, the City did not have a permit process for temporary uses or structures, and the development code lacked clarity about how such structures and uses were regulated. As a result, some temporary uses and structures were not allowed.
- At its December 5, 2023 meeting, the City Council docketed a project to develop regulations for temporary uses and structures when it approved [Resolution No. 1655](#).
- On June 4, 2024, the City Council adopted Ordinance No. 24C-07, which established interim regulations and permitting procedures for temporary structures and uses.

- Staff prepared an initial draft of permanent regulations for temporary uses and structures, which was identical to the interim regulations in effect, establishing:
 - Development standards for temporary uses and structures on real property not owned by the City of Mercer Island (“private property”);
 - Development regulations to continue a pandemic-era allowance for outdoor dining use within public rights of way and private parking spaces; and
 - A permitting process for temporary uses and structures.
- On February 26, 2025, the Planning Commission held a first reading of the draft permanent regulations and provided initial feedback to staff (see [PCB25-12](#)).
- Due to several factors, the first public hearing with the Planning Commission was rescheduled, which required the renewal of the interim regulations under Ordinance No. 24C-07. On May 20, 2025, these interim regulations were renewed for an additional 6 months under Ordinance No. 25C-07 and will now expire on December 16, 2025.
- On June 10, 2025, the Planning Commission held a public hearing to discuss the proposed amendments and draft regulations and directed staff to draft additional amendments.
- At the July 23, 2025, public meeting, the Planning Commission made motions to recommend the incorporation of 15 additional amendments.
- Due to the significant changes made during the July 23, 2025 meeting, a second public hearing was necessary to ensure the public was aware of the changes and had an opportunity to comment on the entire draft regulations. This public hearing was held on September 10, 2025 where the Planning Commission made a motion to recommend that the City Council adopt the development regulations.
- A side-by-side comparison of the development regulations prior to June 2024, the interim regulations adopted under Ordinance No. 24C-07, and the Planning Commission recommended code is provided in Exhibit 3 of AB 6801.
- The City Council conducted the first reading of Ordinance No. 25C-26 on November 4, 2025 where a motion was made to remove all of the Planning Commission recommendations that were classified by staff as “substantive” in AB 6801 Exhibit 3.

BACKGROUND

In 2023, the City Council approved [Resolution No. 1655](#) setting the 2024 Docket, which added Comprehensive Plan and development regulation amendments to the City’s Work Plan. City Council directed staff to proceed with developing interim regulations to address two docketed items from the City of Mercer Island and the Mercer Island Country Club related to temporary uses and structures. After discussing the prioritization of the Mercer Island Country Club docketed item at its March 1, 2024 Planning Session, City Council directed staff to proceed with developing interim regulations to address both docketed items and renew the existing interim regulations for outdoor dining at its regular business meeting on April 2, 2024 (see [AB 6441](#)).

Existing Regulations for Temporary Uses and Structures

Prior to the adoption of [Ordinance No. 24C-07](#) in 2024, the Mercer Island City Code (MICC) did not include regulations for temporary uses and structures. Without established regulations, some temporary uses and structures were either subject to development standards intended for more intense permanent uses or prohibited altogether.

Existing Regulations for Commerce on Public Property

Regulations for commerce on public property are established in [MICC 19.06.050 – Commerce on public property](#). This section allows business owners to use a portion of the right of way or public sidewalks for

private commerce. Commerce on public property is permitted through Community Planning and Development with a right of way use permit or through Parks and Recreation with a special event permit depending on the location and scale of the proposed use or activity. During the COVID-19 Pandemic, the City adopted interim regulations under [Ordinance No. 20C-17](#) for commerce on public property to allow businesses to utilize more outdoor spaces. The interim regulations amended MICC 19.05.060 to consider existing eating and drinking establishments that temporarily provide outdoor food and beverage service on adjacent public property to be considered temporary and may be approved without review or approval by the Design Commission. These amendments also clarified that non-temporary improvements must be consistent with the design requirements in the Town Center Plan.

Planning Commission Review

In February of 2025, the Planning Commission began reviewing the staff proposed draft regulations for temporary uses and structures and commerce on public property, which closely aligned with the interim regulations originally adopted in June 2024 under [Ordinance No. 24C-07](#).

The first public hearing with the Planning Commission was held on June 10, 2025. During this time, the Planning Commission provided staff with significant feedback on the draft regulations. Staff returned on July 23, 2025 with a revised draft that addressed the Planning Commission direction and feedback. During this meeting, several more amendments were made by motion, and additional direction was provided to staff which resulted in the need for a second public hearing to ensure the public was aware of the changes and had an opportunity to comment on the new draft.

A second public hearing with the Planning Commission was held on September 10, 2025, at which time the Planning Commission made a final motion to recommend that the City Council adopt the proposed amendments.

City Council First Reading of Ordinance No. 25C-26

On November 4, 2025, the City Council held a first reading on Ordinance No. 25C-26 ([AB6801](#)). During this meeting, Staff presented the changes between the code prior to the adoption of the interim regulations, the staff proposed regulations which closely aligned with the interim regulations currently in effect, and the Planning Commission recommendation. The Planning Commission chair also spoke briefly to the Planning Commission's recommendation. Following these presentations, the City Council made a motion to remove the Planning Commission recommended amendments that were classified as "substantive" by staff in [AB 6801 Exhibit 3](#). No action was taken to remove any of the 16 minor amendments, so these remain in Ordinance No. 25C-26.

ISSUE/DISCUSSION

Between February and September 2025, the Planning Commission made several substantial changes to the draft regulations originally presented by staff, which were mostly the same as the interim regulations adopted by the City Council on May 20, 2024. Exhibit 3 contains a matrix that identifies the changes made by the Planning Commission recommendation and classifies these changes as "minor" and "substantive". The first reading of Ordinance No. 25C-26 included all these recommended changes. The City Council made the following motion during the November 4, 2025 first reading of Ordinance No. 25C-26:

"Move to remove Matrix Log Numbers 3, 4, 14, 15, 19, 20, 21, 22, 23, 24, and 27 as shown in AB 6801 Exhibit 3 from Ordinance No. 25C-26 and schedule Ordinance No. 25C-26 for second reading as amended."

The result of this motion is shown in Exhibit 2 in red and strikethrough and underlines for clarity.

In addition to these changes, staff recommend three amendments. These amendments are highlighted in Exhibit 2 and summarized as follows:

1. Amend MICC 19.06.130(D)(2)(b) to change “church” to “place of worship” for consistency with MICC 19.16.010, Definitions. “Church” is not defined in the current code, but “places of worship” are defined as “[a] church, synagogue, mosque, or other institution that people regularly attend to participate in or hold religious services, meetings, or other religious activities.”
2. Strike MICC 19.06.130(D)(2)(c), “Fireworks stands operating under a permit issued by the fire marshal’s office.” Fireworks are no longer permitted in the City of Mercer Island.
3. Amend MICC 19.06.130(F) to add a new subsection (2) to establish additional criteria for existing eating and drinking establishments. While the authorization to utilize private parking areas for outdoor dining and waiver of parking minimums were included in Ordinance No. 20C-17 and carried over to Ordinance No. 24C-07 and the subsequent renewal, they were not codified. Instead, they were established through these ordinances and were set to remain in effect for the duration of the ordinances. Staff recommend including the following standards in Ordinance No. 25C-26, which are substantively aligned with the language in the ordinances:
 2. Subject to approval by the code official, existing eating and drinking establishments may 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. 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 section compels a landlord or property owner to permit a tenant to expand its business to the exterior.
 - b. To the extent necessary to provide outdoor food and beverage service, minimum parking regulations normally applicable to eating and drinking establishments required in MICC 19.04.040 and MICC 19.11.130 are waived to enable such uses to serve patrons in adjoining parking spaces for the duration of the temporary use.
 - c. The use of outdoor food and beverage service shall not interfere with ADA accessible parking spaces or access to adjacent and surrounding businesses.
 - d. The temporary use shall obtain all necessary permits and/or authorizations required by the City and/or state and federal agencies.

NEXT STEPS

If adopted, Ordinance No. 25C-26 will have an effective date of five days after the date of publication.

RECOMMENDED ACTION

Adopt Ordinance No. 25C-26 relating to Permanent Regulations for Temporary Uses and Structures, including Outdoor Dining as shown in Exhibit 1 to this AB.