

**CITY OF MERCER ISLAND
ORDINANCE NO. 22C-18**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
RENEWING TEMPORARY MEASURES TO ALLOW MORE OUTDOOR
SEATING FOR EATING AND DRINKING ESTABLISHMENTS; PROVIDING
FOR SEVERABILITY; 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 on February 16, July 6, and December 7, 2021; 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, outdoor restaurant seating has been determined to be safer and less likely to lead to the spread of COVID-19 than indoor restaurant seating, which was previously restricted; and

WHEREAS, the City Council finds that public reluctance to dine indoors because of COVID-19 continues to impact eating and drinking establishments, which may cause said establishments in Mercer Island to close and to go out-of-business; and

WHEREAS, the lack of local eating and drinking establishments would result in harm to public health, safety, property, and welfare in Mercer Island; and

WHEREAS, the Washington State Liquor and Cannabis Board enacted temporary rules for outdoor alcohol service in WAC 314-03-205, which provide temporary exceptions to WAC 314-03-200; and

WHEREAS, the State Liquor and Cannabis Board temporary rules expire July 1, 2023; and

WHEREAS, the City's interim regulations for outdoor dining cannot apply to outdoor alcohol service if the State Liquor and Cannabis Board temporary rules are no longer in effect; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to renew an interim zoning and official control ordinance for up to six months if a subsequent public hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, a public hearing was held on November 15, 2022 by the City Council prior to final passage of this Ordinance;

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 adopted as the findings of fact of the City Council for passing this Ordinance.

Section 2. Interim Zoning and Official Controls Renewed. The interim zoning and official controls passed by Ordinance No. 21C-25 shall be renewed on January 7, 2023, but no sooner than the effective date of this Ordinance, and shall continue in effect until July 1, 2023, to coincide with the current expiration of WAC 314-03-205, unless repealed, extended, or modified by the City Council pursuant to RCW 35A.63.220 and RCW 36.70A.390.

Section 3. 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 4. 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 DECEMBER 6, 2022.

CITY OF MERCER ISLAND

Salim Nice, Mayor

Approved as to Form:

ATTEST:

Bio Park, City Attorney

Andrea Larson, City Clerk

Date of Publication: XX