



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6285
June 20, 2023
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6285: Adoption of Interim Outdoor Dining Regulations (Ordinance No. 23C-09)	<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. 23C-09 on interim regulations in MICC 19.11.060 related to outdoor dining and schedule a public hearing for July 18, 2023.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Community Planning & Development Director Alison Van Gorp, Deputy Director
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 23C-09
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 review and consider adoption of Ordinance No. 23C-09 (Exhibit 1), enacting interim regulations that allow local eating and drinking establishments to expand outdoor dining into public rights-of-way (ROW) and private parking spaces.

- In December 2022, the City Council adopted [Ordinance No. 22C-18](#), which continued interim regulations to allow Mercer Island eating and drinking establishments to temporarily use public ROW and private parking to expand their outdoor dining footprint.
- Ordinance No. [22C-18](#) and previous ordinances (Ordinance Nos. [20C-17](#), [21C-03](#), [21C-16](#), and [21C-25](#)) were adopted to provide flexible alternatives for restaurants on Mercer Island in response to the impacts of the COVID-19 pandemic.
- The current interim regulations took effect on January 7, 2023, and expire on July 1, 2023.
- Adopting Ordinance No. 23C-09 (Exhibit 1) will enact interim regulations through July 2, 2024 and a public hearing will be scheduled for July 18, 2023 to solicit public input on these regulations.

BACKGROUND

The City first enacted interim regulations to expand outdoor dining into public ROW and private parking in August 2020 to assist Mercer Island businesses establishments impacted by the COVID-19 pandemic. Currently, the outdoor dining program is enabled by the following interim regulations:

- Amendment to subsections (D)(4) and (E) of MICC 19.06.050 Commerce on public property; Temporary waiver of the minimum parking regulations for eating and drinking establishments identified in MICC 19.04.040 and MICC 19.11.030; and
- Authorization to use private parking spaces for outdoor dining.

In October 2022, City staff updated the City Council on progress made and issues related to developing permanent regulations allowing Mercer Island eating and drinking establishments to expand outdoor dining into public ROW and private parking. Staff initially planned to present a code amendment to the Planning Commission in September 2022. However, after learning that the Washington State Liquor and Cannabis Board's temporary allowances for outdoor alcohol service were set to expire on July 1, 2023, staff paused the code work to evaluate alternatives and brief the City Council. The City Council opted to adopt Ordinance 22C-18 to extend the current interim regulations through July 1, 2023.

ISSUE/DISCUSSION

During the 2023 State Legislative Session, [SB 5448](#) was adopted and signed into law by the Governor on May 4, 2023. This legislation extends the temporary allowances for outdoor alcohol service through July 1, 2025. With this longer timeline, a local business has expressed interest in continuing to utilize the ROW for food and beverage service until at least 2025. To do so, in the near-term, the City will need to re-establish interim regulations permitting temporary food and beverage service in the ROW through a simple ROW permit application. The timing of the legislative session and the expiration of the current interim regulations on July 1, necessitate quick action by the City to continue to allow food and beverage service in the ROW without interruption.

Longer term, the City will need to track further action by the State legislature and the Liquor and Cannabis Board when considering adopting permanent regulations for temporary uses/outdoor dining. The City should also coordinate with the Chamber of Commerce and local food and beverage establishments to better understand needs related to outdoor dining. Staff in the Recreation Division should also be consulted to understand the needs for temporary use of the ROW for vendors as a part of special events such as Summer Celebration and the Pumpkin Walk. The culmination of this work will likely be a docket request for a proposed code amendment related to temporary uses and outdoor dining. Staff anticipate that this docket request could be brought forward in 2024, for consideration as a part of the 2025 CPD work plan.

NEXT STEPS

Ordinance No. 23C-09 (Exhibit 1) adopts interim regulations amending MICC 19.06.050 permitting temporary food and beverage service in the public ROW with a simple ROW permit; provides a temporary waiver of the minimum parking regulations for eating and drinking establishments identified in MICC 19.04.040 and MICC 19.11.030; and authorizes the temporary use of private parking spaces for outdoor dining. The interim regulations would be in effect for a duration of one year, while the city pursues the long-term steps outlined above, and as summarized in the work plan included in the Ordinance as Attachment A.

Due to the timing of the expiration of the current interim regulations, and the time required for publication of the new ordinance, it is recommended that the City Council adopt Ordinance No. 23C-09 at first reading under City Council Rules of Procedure 6.3 (C)(3), which permits adoption of an ordinance at first reading when its effective date precludes a second reading. Ordinance No. 22C-18 expires on July 1, 2023. If Ordinance No. 23C-09 is adopted at the June 20, 2023, meeting, it would be published on June 28, 2023 and would become effective on July 3, 2023. This will minimize the lapse between interim regulations as much as possible.

Pursuant to [RCW 35A.63.220](#) and [RCW 36.70A.390](#), a public hearing must be scheduled within 60 days of adopting an interim ordinance. Staff recommends that the required public hearing to receive public comment on Ordinance No. 23C-09 be held at the July 18 City Council Meeting.

RECOMMENDED ACTION

Adopt, at first reading under City Council Rules of Procedures 6.3(C)(3), Ordinance No. 23C-09 on interim regulations in MICC 19.11.060 related to outdoor dining and schedule a public hearing for July 18, 2023.