



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6168
October 18, 2022
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6168: Update on Outdoor Dining Regulations	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Receive the presentation and schedule a public hearing to renew interim regulations at an upcoming Council Meeting.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Sarah Bluvas, CIP Project Manager
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Current Interim Outdoor Dining Regulations (Ordinance No. 21C-25)
CITY COUNCIL PRIORITY:	3. Implement an economic development program.

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

EXECUTIVE SUMMARY

The purpose of this agenda bill is to provide an update on interim development regulations that currently enable local eating and drinking establishments to expand their outdoor dining space into public Right-of-Way (ROW) and private parking spaces.

- [Ordinance No. 21C-25](#) (Exhibit 1) authorizes interim regulations to allow existing eating and drinking establishments to temporarily use public ROW and private parking spaces to expand their outdoor footprint.
- Ord. No. 21C-25 and previous ordinances (No. [20C-17](#), [21C-03](#), and [21C-16](#)) were adopted to provide flexible alternatives for restaurants on Mercer Island in response to the impacts of the COVID-19 pandemic.
- The current program is enabled by an interim amendment to [MICC 19.06.050](#) and a temporary waiver of parking requirements for eating and drinking establishments.
- The current interim regulations took effect on January 7, 2022, and expire on January 6, 2023.
- On Tuesday, City staff will update the City Council on progress on and issues for enacting permanent regulations and request that the Council consider renewing the current interim regulations through July 1, 2023.

BACKGROUND

INTERIM CITY REGULATIONS ENABLING OUTDOOR DINING

[Ordinance No. 21C-25](#) (Exhibit 1) authorizes interim regulations to allow existing eating and drinking establishments to temporarily use ROW and private parking spaces to expand their outdoor footprint. This and previous ordinances (No. [20C-17](#), [21C-03](#), and [21C-16](#)) were adopted to provide flexible alternatives for restaurants on Mercer Island in response to the impacts of the COVID-19 pandemic.

The current 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.

The current interim regulations took effect on January 7, 2022, and expire on January 6, 2023. One local establishment is currently permitted to use ROW to create outdoor seating, and at least three other businesses worked with their property managers to develop other outdoor seating alternatives under these provisions. A one-time permit fee of \$347.63 was established for the ROW permit under these interim regulations; the City has used King County CARES Act funding to offset the permit costs rather than passing them on to the permit holder.

STATE REGULATIONS IMPACTING OUTDOOR DINING

The Washington State Liquor and Cannabis Board (Liquor Cannabis Board) granted temporary allowances for outdoor alcohol service ([WAC 314-03-205](#)) in response to pandemic impacts. These temporary rules allow licensed businesses to set up and serve alcohol on public property that is not contiguous with their establishments.

The temporary rules for outdoor alcohol service expire on July 1, 2023, and the Liquor Cannabis Board has not indicated that it plans to renew the temporary rules beyond that date. If the temporary rules are not extended, current and future Mercer Island permit holders who require a license from the Liquor Cannabis Board will no longer be able to use public property for outdoor dining unless it is contiguous with their establishment.

ISSUE/DISCUSSION

PROGRESS ON PERMANENT OUTDOOR DINING PERMIT PROGRAM

Ordinance No. 21C-25 included a work plan for evaluating and, if necessary, implementing code changes to identify a permanent solution to allow outdoor dining in ROW and private parking spaces.

Staff were prepared to present a code amendment to the Planning Commission in September 2022 and to conduct the necessary public hearing. Upon learning about the Liquor Cannabis Board's intent to end the temporary rules allowing for non-contiguous dining, the public hearing was canceled to allow staff time to evaluate alternatives.

REVISED APPROACH

Staff seek feedback on the following revised approach to ensure that local businesses can offer outdoor dining into 2023:

1. Staff recommend that the interim regulations enabling outdoor dining in the ROW and private parking be renewed until July 1, 2023, when the Liquor Cannabis Board temporary rules will end. If the City Council agrees with this recommendation, staff will return with a new ordinance and conduct a public hearing on November 15, 2022.
2. Staff will request the Liquor Cannabis Board make permanent the temporary rules allowing for non-contiguous dining. Additional details on the advocacy and outreach plan are provided below.
3. Staff have included an item related to evaluating and updating MICC 19.06.050 as part of the 2023 Docket of Development Code and Comprehensive Plan Amendments, which will be presented to the City Council for review and adoption in December 2022.

ADVOCACY FOR EXTENDING TEMPORARY LCB RULES

City staff are advocating for the Liquor Cannabis Board's temporary rules for non-contiguous outdoor alcohol service to become permanent. Staff have undertaken the following activities:

- Met with the current ROW permit holder to make them aware of the expiring Liquor Cannabis Board rules and of the City's advocacy plans;
- Contacted economic development partners at Bellevue, Bothell, Issaquah, Kent, Kirkland, Redmond, Renton, and Tukwila to learn if/how they are advocating for their local businesses to the Liquor Cannabis Board and whether they would join the City's advocacy activities (staff will share feedback not available at the time of packet publication with the City Council when available); and
- Made the Mercer Island Chamber of Commerce and the Eastside Chambers Coalition aware of this issue and asked for support.

At the conclusion of the City Council meeting, the City Manager's Office will send a letter to the Liquor Cannabis Board requesting that the temporary rules allowing for non-contiguous dining be made permanent.

Staff are interested in receiving any additional feedback from the City Council on the proposed advocacy strategy.

NEXT STEPS

If the City Council supports renewing the interim outdoor dining regulations, staff will schedule and notice a public hearing to take place at the City Council's regular meeting on November 15, 2022. A new ordinance will be drafted and presented the same night. Staff will also continue to pursue a long-term solution with the Liquor Cannabis Board on behalf of Mercer Island businesses and will provide regular updates as the work progresses.

RECOMMENDED ACTION

Receive the presentation and schedule a public hearing at an upcoming Council Meeting to renew interim regulations established by Ordinance No. 21C-25.