

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 969 - Amending Chapter 20.50 of the Shoreline Municipal Code to Add Regulations for Outdoor Seating and Repealing Interim Ordinance No. 965
DEPARTMENT:	Planning & Community Development
PRESENTED BY:	Cate Lee, AICP, Senior Planner
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Eating and drinking establishments have been severely impacted by the COVID-19 pandemic. To provide relief for these businesses, many communities, including Shoreline, took action to ease regulations on outdoor seating areas so that lost capacity due to indoor seating restrictions were at least partially offset while still adhering to local requirements to reduce the spread of COVID-19. Shoreline’s interim regulations for outdoor seating areas went into effect on July 27, 2020 and have been extended by the City Council on four (4) occasions. Council has also previously directed staff to develop permanent regulations for outdoor seating areas.

Tonight, Council is scheduled to take action on proposed Ordinance No. 969 (Attachment A), which contains permanent regulations for onsite outdoor seating areas and would repeal the interim regulations that have been in effect since July 2020.

RESOURCE/FINANCIAL IMPACT:

Minimal resource impacts are anticipated as a result of this discussion. If Council adopts proposed Ordinance No. 969, the new regulations will result in fee collection related to staff processing of Outdoor Seating permit applications. However, this fee is not intended to cover the entire cost of staff time. The fee is proposed to cover only a portion of time to process the applications and to encourage these spaces, which offer a public benefit in the form of activating surface parking lots and increasing the number and types of gathering spaces. A one-hour fee will be charged to the business owner, while it’s anticipated staff will spend one to three hours reviewing the application.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments to Chapter 20.50 of the Shoreline Municipal Code as shown in Exhibit A to Ordinance No. 969.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

Eating and drinking establishments have been severely impacted by the COVID-19 pandemic. To provide relief for these businesses, many communities, including Shoreline, took action to ease regulations on outdoor seating areas so that lost capacity due to indoor seating restrictions were at least partially offset while still adhering to local requirements to reduce the spread of COVID-19. Shoreline's interim regulations for outdoor seating areas went into effect on July 27, 2020 and have been extended by the City Council on four (4) occasions. Council has also previously directed staff to develop permanent regulations for outdoor seating areas.

Interim Outdoor Seating Regulations

The main components of the interim regulations approved by the City Council include the following:

- Establishment of an Outdoor Seating Registration for areas on private property;
- Suspension of Temporary Use Permit provisions in Shoreline Municipal Code (SMC) Section 20.30.295 for outdoor seating areas;
- Suspension of minimum off-street parking requirements in SMC 20.50.390 for existing eating and drinking establishments;
- Expedited review for Right-of-Way (ROW) Site Permits for outdoor seating areas on City ROW; and
- Waiver for application fees and ROW use fees.

To date, there have been five (5) outdoor seating registrations filed with the City, all on private property and none within the public ROW. Two (2) of those outdoor seating areas are still in operation. Even though there has not been widespread utilization of the interim regulations, the City Council directed staff to bring forward permanent regulations for their consideration.

Planning Commission Review

The Planning Commission discussed this topic on December 16, 2021, held a study session on May 19, 2022, and a Public Hearing on July 21, 2022. The staff reports for these Planning Commission agenda items, along with the meeting minutes and public comments, can be found at the following links:

- [December 16, 2021 Meeting](#)
- [May 19, 2022 Meeting](#)
- [July 21, 2022 Meeting](#)

No public comments were received during the July 21st Planning Commission Public Hearing. Following the Public Hearing, the Planning Commission voted 6-0 to recommend the proposed Outdoor Seating Development Code amendments as proposed in Attachment A, Exhibit A.

The City Council then discussed the proposed Development Code amendments on August 15, 2022. More information on this discussion can be found here: [Discussion of Ordinance No. 969 - Amending Chapter 20.50 of the Shoreline Municipal Code to Add Regulations for Outdoor Seating and Discussion of Resolution No. 493 - Adopting a Fee for Outdoor Seating Permits.](#)

DISCUSSION

During the August 15, 2022 City Council discussion on the Outdoor Seating Development Code Amendments, one question was raised by Council. Councilmember Roberts asked what circumstances would require a modification of an existing Outdoor Seating permit. Staff's response to the question is that modification of an existing Outdoor Seating permit would be required if the area was being expanded in any way (additional square footage, seating, etc.). Following the Council discussion, Council directed staff to return proposed Ordinance No. 969 tonight for potential action.

RESOURCE/FINANCIAL IMPACT

Minimal resource impacts are anticipated as a result of this discussion. If Council adopts proposed Ordinance No. 969, the new regulations will result in fee collection related to staff processing of Outdoor Seating permit applications. However, this fee is not intended to cover the entire cost of staff time. The fee is proposed to cover only a portion of time to process the applications and to encourage these spaces, which offer a public benefit in the form of activating surface parking lots and increasing the number and types of gathering spaces. A one-hour fee will be charged to the business owner, while it's anticipated staff will spend one to three hours reviewing the application.

RECOMMENDATION

The Planning Commission has recommended adoption of the proposed amendments to Chapter 20.50 of the Shoreline Municipal Code as shown in Exhibit A to Ordinance No. 969.

ATTACHMENTS

Attachment A – Proposed Ordinance No. 969

Attachment A, Exhibit A – Planning Commission Recommended Code Amendments

ORDINANCE NO. 969

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING CHAPTER 20.50 OF THE SHORELINE MUNICIPAL CODE TITLE 20, THE UNIFIED DEVELOPMENT CODE, TO INCLUDE DESIGN STANDARDS PERTAINING TO OUTDOOR SEATING AND REPEALING INTERIM ORDINANCE NO. 965.

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, Shoreline Municipal Code (SMC) Title 20, sets forth the City's Unified Development Code; and

WHEREAS, on July 27, 2020, the City Council adopted Ordinance No. 895, enacting interim regulations for outdoor seating areas for existing restaurants and bars due to indoor seating restrictions in place at that time related to the COVID-19 pandemic; and

WHEREAS, on January 11, 2021, the interim regulations were extended by Ordinance No. 917, on June 21, 2021, they were extended again by Ordinance No. 936, on December 13, 2021, they were extended again by Ordinance No. 952, and on June 6, 2022, they were extended one final time by Ordinance No. 965; and these interim regulations will automatically expire on December 11, 2022; and

WHEREAS, during the pendency of these interim regulations, City staff has been developing design standards to allow outdoor seating areas at eating and drinking establishments; and

WHEREAS, on December 16, 2021, and May 19, 2022, the Planning Commission discussed the proposed amendments; and on July 21, 2022, the Planning Commission held a public hearing on the proposed amendments so as to receive public testimony; and

WHEREAS, at the conclusion of public hearing, the Planning Commission voted that the proposed amendments as presented by staff be approved by the City Council; and

WHEREAS, on August 15, 2022, the City Council held a study session on the proposed amendments; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, the City has provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the environmental impacts of the amendments resulted in the issuance of a Determination of Non-significance on June 8, 2022; and

WHEREAS, the City provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation and has determined that the amendments to Title 20 are consistent with and implement the Shoreline Comprehensive Plan and serves the purpose of the Unified Development Code as set forth in SMC 20.10.020;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendments. Unified Development Code. Chapter 20.50 of Title 20 of the Shoreline Municipal Code, Unified Development Code, is amended as set forth in Exhibit A to this Ordinance.

Section 2. Repealer – Interim Ordinance No. 965. Interim Ordinance No. 965, extending interim regulations authorizing outdoor seating, shall be repealed and have no further force and effect upon the effective date of this Ordinance.

Section 3. Transmittal of Amendments to Washington State Department of Commerce. Pursuant to RCW 36.70A.106, the Director of Planning and Community Development, or designee, is directed to transmit a complete and accurate copy of this Ordinance and Exhibit A to the Washington State Department of Commerce within ten (10) calendar days of the date of passage of this Ordinance.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

Section 6. Publication and Effective Dates. A summary of this Ordinance consisting of the title shall be published in the official newspaper and shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2022.

Keith Scully, Mayor

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik Smith
City Clerk

Julie Ainsworth-Taylor
Assistant City Attorney
On behalf of Margaret King
City Attorney

Date of Publication: , 2022
Effective Date: , 2022

SMC 20.50.260 Outdoor seating design.

- A. Purpose. To allow outdoor seating on private property that creates an active and inviting space for people and promote economic development consistent with the vision for commercial development articulated in the Comprehensive Plan.
- B. Applicability. This section applies to outdoor seating associated with a Brewpub, Eating and Drinking Establishment, Microbrewery, or Microdistillery that is located on the same lot, or part of an interdependent site plan consisting of multiple lots.
- C. Compliance with Other Codes and Standards. All outdoor seating areas shall be operated in a safe and sanitary manner and shall comply with the following:
 - 1. All applicable provisions of Chapter 15.05 SMC Construction and Building Codes, including but not limited to, the International Building Code, the International Fire Code, and the National Electrical Code;
 - 2. SMC 9.05 Noise Control;
 - 3. All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - 4. Accessibility requirements of the Americans with Disabilities Act (ADA); and
 - 5. All applicable provisions of the Code of the King County Board of Health, including but not limited to, Title 5 and Title 5R Food-Service Establishments.
- D. Permit Requirements. Outdoor seating areas shall obtain a permit. If a building permit is required for any structure(s) used for the outdoor area, then review and approval shall occur concurrent with the building permit.
- E. Use. The outdoor seating area shall comply with the following:
 - 1. It shall be accessory to a Brewpub, Eating and Drinking Establishment, Microbrewery, or Microdistillery; and
 - 2. It shall not be used exclusively for storage or accessory uses that do not meet the purpose of this section.
- F. Parking Standards.
 - 1. Outdoor seating areas permitted under this section are not subject to the minimum off-street parking requirements in SMC 20.50.390.
 - 2. On single-tenant sites, up to four required off-street parking spaces, or thirty percent (30%) of required off-street parking spaces, whichever is greater, may be converted to outdoor seating, even if the conversion causes the site to become nonconforming in regard to required off-street vehicle parking. On multi-tenant sites, up to four required off-street parking spaces per tenant, or thirty percent (30%) of required off-street parking spaces, whichever is lesser, may be converted to outdoor seating, even if

the conversion causes the site to become nonconforming in regard to required off-street vehicle parking.

G. Design Standards. Outdoor seating areas shall comply with the following:

1. If the outdoor seating area is within a building, as defined by the Development Code, then compliance with the minimum setbacks set forth in SMC 20.50.020 is required.
2. Required Barriers.
 - i. Any edge of the outdoor seating area that is within 20 feet of a right-of-way vehicle travel lane shall be enclosed with a permanent or movable barrier(s).
 - ii. Barrier(s) shall be between 30 and 42 inches in height and consist of fencing, railing, planters, or other approved elements. If alcohol is served the barrier(s) shall comply with WAC 314-03-200, as amended, which shall satisfy this code provision.
 - iii. Barrier(s) shall be constructed of finish quality materials such as steel, safety glass or finished wood, or other approved materials as determined by the Director.
 - iv. Barriers(s) shall comply with the clear sight triangle standards required by The Engineering Development Manual.
3. Tables and Seating.
 - i. Tables and seating shall not obstruct doors or exits.
 - ii. Tables and seating shall be made of durable, quality materials, including molded plastic, resin wicker, decorative metal or finish grade wood, or other approved materials as determined by the Director.
4. Weather Protection.
 - i. All tents, canopies, fabric screens, and umbrellas are subject to approval by the building official for any structural requirements and by the fire marshal for flame-retardance.
 - ii. Tents, canopies, awnings, fabric screens, and umbrellas shall be made of durable, quality materials.
5. Ventilation. Barriers, tents, fabric screens, and other vertical materials erected as part of the outdoor seating area shall allow adequate ventilation. This does not apply to exterior building walls used for interior eating or drinking areas.
6. Operation and Maintenance. Any of the elements of the outdoor seating areas are not permitted and shall be removed if they are not securely attached, create a traffic hazard, or are not maintained in good condition and free of damage, including but not limited to holes, rips, dents, or mold.