

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 917 – Extension of Interim Regulations for Outdoor Seating
DEPARTMENT:	Planning and Community Development
PRESENTED BY:	Andrew Bauer, 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:

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 related to COVID-19. The interim regulations will expire on January 27, 2021 if they are not extended. After having been relaxed in some locations with the phased reopening, more stringent restrictions on indoor seating areas were again imposed statewide as cases of COVID-19 have increased in recent weeks – continuing to add economic stress and uncertainty for restaurants and bars.

On December 14th Council held a public hearing and discussed proposed Ordinance No. 917 that would extend these interim regulations for another six months. No public comments were received, and the Council placed the item on the January 11th consent agenda.

RESOURCE/FINANCIAL IMPACT:

The interim regulations waive fees for temporary outdoor seating areas. The total impact on revenue will vary depending on the number of businesses establishing outdoor seating areas, which has been five businesses to date. However, with the Outdoor Seating Registration process now implemented for private property areas, it is anticipated to use a smaller amount of staff time to process the registrations. Additionally, by expanding occupancy, businesses will hopefully be able to increase their sales and in-turn contribute more to the flow of economic activity in the City (e.g. wages to employees, tax revenue, etc.).

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 917.

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

BACKGROUND

Eating and drinking establishments have been severely impacted by the COVID-19 pandemic. New statewide restrictions went into effect on November 17, 2020 for a duration of four weeks and prohibit all indoor service for restaurants and bars and limit outdoor seating to a maximum table size of five people.

On July 27, 2020, the City Council adopted Ordinance No. 895 (Attachment A), which established interim regulations for outdoor seating for restaurants and bars. In accordance with State law, the interim regulations adopted in Ordinance No. 895 will expire on January 27, 2021, unless extended by Council. The staff report for this Council action can be found at the following link: <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport072720-8a.pdf>.

The main components of the interim regulations include the following:

- Establishment of an Outdoor Seating Registration for areas on private property;
- Suspension of Temporary Use Permit provisions in SMC 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 Site Permits for outdoor seating areas on City ROW; and
- Waiver for application fees and ROW use fees.

To date, there have been five outdoor seating registrations filed with the City. There have not been any applications for use of the ROW.

DISCUSSION

As is noted above, Ordinance No. 895 will expire on January 27, 2021. Extension of the interim regulations would allow for continued flexibility for outdoor seating areas for existing bars and restaurants. Local restaurants and bars may benefit from the continued ability to create outdoor seating areas to adapt to changing restrictions.

Interim Regulations Authority and Process

The City Council has statutory authority to adopt interim regulations pursuant to RCW 35A.63.220 and under the Growth Management Act (GMA) at RCW 36.70A.390. Under these statutory provisions, the City adopted Ordinance No. 895 without a Public Hearing and without review and recommendation by the Planning Commission. As required by State law, a public hearing on Ordinance No. 895 was held on August 10, 2020.

Interim regulations adopted under this section may be effective for not longer than six months but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. Interim regulations may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Findings of Fact

The interim regulations adopted in Ordinance No. 895 may be renewed for another six-month period following a public hearing, documentation of the findings of fact that support the extension, and adoption of a new ordinance. Findings of Fact supporting the continued need for these interim regulations are as follows:

1. The COVID-19 pandemic continues to pose a threat to public health and the welfare of people living and working in Washington.
2. On February 29, 2020, Governor Inslee signed Proclamation 20-05 declaring a State of Emergency in all counties of the State of Washington.
3. On March 23, 2020, Governor Inslee issued Proclamation 20—25 “Stay Home – Stay Healthy,” that prohibits all people in Washington State from leaving their homes or participating in social, spiritual and recreational gatherings of any kind regardless of the number of participants, and all non-essential businesses in Washington State from conducting business, within limitations. Proclamation 20-25 has been amended eight times since enactment and has been extended to December 14, 2020.
4. On June 1, 2020, Proclamation 20-25 was amended for the 4th time to transition from the “Stay Home – Stay Healthy” restrictions to the “Safe Start-Stay Healthy” county by county Phased Reopening plan.
5. On July 2, 2020, due to the increased COVID-19 infection rates across the state, Governor Inslee ordered a freeze on all counties moving forward to a subsequent phase, and that freeze remains in place today.
6. On November 15, 2020 Governor Inslee amended Proclamations 20-05 and 20-25 with version 20-25.8 which rolled back the county by county phased reopening in response to a COVID-19 outbreak surge. The latest restrictions place limits on social gatherings, close indoor operations in restaurants, bars, entertainment venues, and fitness centers, and restrict occupancy in retail, grocery, professional services and other facilities until at least December 14, 2020. The specific health concerns and associated social distancing measures in place necessitating the need to extend the interim regulations as described in proposed Ordinance No. 917 are articulated in Proclamation 20-25.8: https://www.governor.wa.gov/sites/default/files/proclamations/proc_20-25.8.pdf.

Council held the required public hearing and discussed proposed Ordinance No. 917 (Attachment B) on December 14th. This Ordinance would extend the interim regulations for outdoor seating for restaurants and bars for another six months.

RESOURCE/FINANCIAL IMPACT

The interim regulations waive fees for temporary outdoor seating areas. The total impact on revenue will vary depending on the number of businesses establishing outdoor seating areas, which has been five businesses to date. However, with the Outdoor Seating Registration process now implemented for private property areas, it is anticipated to use a smaller amount of staff time to process the registrations. Additionally, by expanding occupancy, businesses will hopefully be able to increase their sales and in-turn contribute more to the flow of economic activity in the City (e.g. wages to employees, tax revenue, etc.).

RECOMMENDATION

Staff recommends that the City Council adopt proposed Ordinance No. 917.

ATTACHMENTS

Attachment A – Ordinance No. 895 - Interim Regulations for Outdoor Seating

Attachment B – Proposed Ordinance No. 917 - Extension of Interim Regulations for
Outdoor Seating

ORDINANCE NO. 895**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING INTERIM REGULATIONS TEMPORARILY AUTHORIZING OUTDOOR SEATING ON PRIVATE PROPERTY AND WITHIN APPROVED PUBLIC RIGHTS-OF-WAY IN RESPONSE TO THE COVID-19 PANDEMIC; DECLARING AN EMERGENCY; PROVIDING FOR IMMEDIATE EFFECT WITH A DURATION OF SIX MONTHS; AND SETTING A PUBLIC HEARING.**

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, chapter 36.70A RCW; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City of Shoreline to adopt interim regulations with a duration of no more than six (6) months without review and recommendation by the Shoreline Planning Commission and without holding a public hearing; and

WHEREAS, on February 29, 2020, the Washington State Governor declared a State of Emergency in all counties. On March 4, 2020, the City Manager issued a Declaration of Local Public Health Emergency (“Declaration”). This Declaration was ratified by the City Council on March 16, 2020 by the passage of Resolution No. 454. During the first few weeks of March, Public Health – King County/Seattle and the Governor issued directions to close certain types of businesses, engage in social distancing protocols, and limit the size of gatherings to reduce the spread of COVID-19; and

WHEREAS, on March 23, 2020, the Washington State Governor issued the “Stay Home - Stay Healthy” Proclamation 20-25 and on May 31, 2020, the Governor amended that Proclamation to provide for a four phase reopening of Washington’s economy – the “Safe Start Washington Phased Reopening County-by-County Plan” (“Safe Start Plan”); and

WHEREAS, while eating and drinking establishments have been permitted to provide delivery and carry-out services during the initial months of the Proclamation and in Phase 1 of the Safe Start Plan, they are permitted to provide for indoor dining at limited capacity in subsequent phases subject to compliance with a COVID-19 exposure control, mitigation, and recovery plan; and

WHEREAS, on June 19, 2020, King County moved into Phase 2 of the Safe Start Plan, which limits indoor customer occupancy for restaurants and taverns to fifty percent (50%) of a building’s occupancy or lower as determined by fire code and, also permits outdoor dining at fifty percent (50%) of capacity and this capacity does not count towards the building’s occupancy limit; and

WHEREAS, eating and drinking establishments have suffered significant financial impacts and the establishment of interim regulations of six months in duration will provide certain outdoor space for eating and drinking establishments to utilize for seating consistent with the Safe Start Plan during this time of economic downturn; and

WHEREAS, permitting establishments to utilize certain portions of the public rights-of-way or private property for outdoor dining will assist in mitigating the impact these establishments have endured due to COVID-19; and

WHEREAS, interim regulations are exempt from SEPA review per WAC 197-11-800(19) Procedural Actions. If the City elects to replace these interim regulations with permanent regulations, SEPA review will be conducted at that time; and

WHEREAS, the City Council considered the interim regulations at its properly noticed July 20, 2020 and July 27, 2020 regular meetings held virtually via Zoom; and

WHEREAS, the City Council has determined that the use of the interim regulations is appropriate and necessary due to the current economic conditions resulting from COVID-19 and, therefore, it is in the best interests of the citizens of the City of Shoreline to provide for outdoor dining within certain public rights-of-way and on private property;

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

Section 1. Public Emergency Ordinance and Effective Date. The City Council hereby finds and declares that this Ordinance is a public emergency ordinance necessary for the protection of the public health and safety as stated in Resolution No. 454 and shall take effect and be in full force upon its adoption by a majority vote plus one of the whole members of the City Council and that the same is not subject to a referendum (RCW 35A.11.090). The underlying facts necessary to support this emergency declaration are included in the WHEREAS clauses above, all of which are adopted by reference as findings of facts as set forth in full herein.

Section 2. Interim Regulations. Legally permitted eating and drinking establishments existing as of the effective date of this Ordinance may establish temporary outdoor seating areas as provided in the provisions set forth in this section:

A. Use of Parking Lots on Private Property.

1. Eating and drinking establishments with access to a private parking lot may use this area for outdoor seating provided:
 - a. The owner or owner's representative submits an Outdoor Seating Area Registration on official form(s) as prescribed and provided by the Department of Planning and Community Development.
 1. There shall be no submittal fee for the Outdoor Seating Area Registration.
2. Any provision contained in a Registration is not intended to interfere with or supersede any contractual obligations and Registrants are solely responsible for ensuring authorization from the property owner to utilize the area.
3. In relationship to outdoor seating areas within private parking lots, the following sections of the Shoreline Municipal Code are suspended:
 - a. SMC 20.30.295: Temporary Use Permit.
 - b. SMC 20.50.390: Minimum off-street parking requirements, provided ADA-accessible stalls are still provided, as may be necessary to comply with ADA standards.

B. Use of Public Right-of-Way.

1. Eating and drinking establishments with access to areas such as public sidewalks, on-street parking, or other public space (Public right-of-way) may use these areas for outdoor seating provided:
 - a. The owner or owner's representative shall submit a right-of-way site permit application utilizing official forms provided by the Department of Public Works as required by SMC 12.15.040.
 - b. The Departments of Public Works and Planning and Community Development shall take reasonable steps to review and render a decision on the permit application no more than seven (7) business days after application intake.
 - c. The Director of Public Works shall have discretion to modify standards set forth in the Engineering Design Manual without use of the formal deviation procedures as may be necessary to effectuate the intent of these interim regulations.
2. In relationship to outdoor seating areas within the public rights-of-way, the following sections of the Shoreline Municipal Code are suspended:
 - a. SMC 3.01.010(J)(4): Right-of-way site permit fee.
 - b. SMC 12.15.030(C)(4): Periodic Use fee.

C. Conditions Applicable to all Outdoor Seating Areas.

The following provisions are applicable to all Outdoor Seating Area Registrations or Right-of-Way Site Permits.

1. All outdoor seating areas allowed by these interim regulations shall be operated in a safe and sanitary manner and are subject to the following terms and conditions to ensure compliance with:
 - a. 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 Electric Code;
 - b. SMC 9.05 Noise Control;
 - c. All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - d. Accessibility requirements of the Americans with Disabilities Act (ADA);
 - e. 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;
 - f. The Seattle/King County Public Health COVID-19 guidelines for restaurants; and
 - g. Washington's Safe Start Re-Opening Phasing Plan, including any directives issued by the State of Washington.
2. An Outdoor Seating Area Registration or an Outdoor Seating Area Right-of-Way Permit shall be effective for the duration of this Ordinance and any extension thereof. If the City has not adopted permanent regulations permitting outdoor seating areas, these areas shall be removed and restored back to their original condition. If the City has adopted permanent regulations, then continued use of the outdoor seating area shall be subject to such regulations, including but not limited to, obtaining a permit and paying any required fees.
3. The failure of an eating or drinking establishment to adhere to the terms and conditions set forth in the Registration or Permit or to be found operating in a manner that creates

a public nuisance may result in modification, suspension, or revocation of the Registration or Permit. If revoked, the establishment shall not be permitted to operate another outdoor seating area during the duration of this Ordinance, and any extension thereof unless separate permit approval is granted by the Director of Planning and Community Development, which may contain additional conditions. Approval of said permit shall be in the Director's sole discretion.

D. Shoreline Fire Department.

Subject to approval by the Shoreline Fire Department, Fire Operational permit fees as set forth in SMC 3.01.020 may be waived or reduced for outdoor seating areas.

E. Liberal Construction.

The Director of Planning and Community Development and the Director of Public Works are hereby authorized to liberally administer the Outdoor Seating Area program established by this Ordinance to effectuate the City Council's intent of these interim regulations. This authority includes the imposition of any condition necessary to ensure the public health and safety and the promulgation of rules of procedures to effectuate the program.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing at 7:00 pm, or soon thereafter, on August 10, 2020, to take public testimony concerning the interim regulations. Pursuant to the Washington State Governor's Proclamation 20-28, as amended, and City Council Resolution No. 459, the public hearing will take place online using the Zoom Webinar platform.

Section 4. Directions to the City Clerk.

- A. Public Hearing.** The City Clerk is hereby directed to establish a Zoom Webinar on August 10, 2020, and to post information on the City's website informing the public how to attend and/or participate in the public hearing.
- B. Transmittal to the Department of Commerce.** The City Clerk is hereby directed to cause a certified copy of this Ordinance to be provided to the Director of Planning and Community Development who shall transmit the Ordinance to the Washington State Department of Commerce within ten (10) calendar days of passage as provided in RCW 36.70A.106.
- C. Corrections by the City Clerk.** Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this Ordinance, including the correction 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.
- D. Ordinance not to be Codified.** Because this Ordinance adopts interim regulations, the City Clerk shall not codify this Ordinance.

E. Section 5. Reservation of Rights.

1. The City reserves the right to inspect any outdoor seating area to ensure compliance with the terms and conditions of the Registration or Permit.
2. The City reserves the right, at its discretion, to suspend the provisions of this Ordinance in furtherance of the public health and safety of the residents of the City of Shoreline.

Section 6. 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 7. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper.

Section 8. Duration. This Ordinance shall be in effect for a period of six (6) months from its effective date. After which, these interim regulations shall automatically expire unless extended as provided by statute or otherwise superseded by action of the City Council, whichever occurs first. The City shall provide reasonable notice to Registrants and Permittees no less than twenty-one (21) calendar days prior to the expiration of these interim regulations.

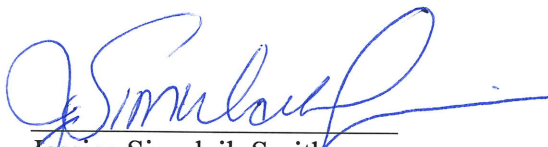
PASSED BY THE CITY COUNCIL ON JULY 27, 2020 BY A MAJORITY VOTE PLUS ONE OF THE WHOLE MEMBERS OF THE CITY COUNCIL.



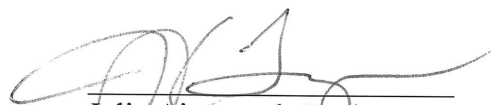
Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:



Jessica Simulcik Smith
City Clerk



Julie Ainsworth-Taylor
Assistant City Attorney

Date of Publication: July 30, 2020
Effective Date: July 27, 2020

ORDINANCE NO. 917

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
EXTENDING INTERIM REGULATIONS TEMPORARILY
AUTHORIZING OUTDOOR SEATING ON PRIVATE PROPERTY AND
WITHIN APPROVED PUBLIC RIGHTS-OF-WAY IN RESPONSE TO THE
COVID-19 PANDEMIC ADOPTED BY ORDINANCE NO. 895;
PROVIDING FOR A DURATION OF SIX MONTHS.**

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, chapter 36.70A RCW; and

WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 authorize the City of Shoreline to adopt interim regulations with a duration of no more than six (6) months without review and recommendation by the Shoreline Planning Commission and without holding a public hearing; and

WHEREAS, on July 27, 2020, due to substantial impacts from the COVID-19 pandemic which resulted in the Washington State Governor's declaration of a State of Emergency, the City Manager's Declaration of Local Public Health Emergency, the Washington State Governor's "Stay Home Stay Healthy" Proclamation 20-25, and subsequent guidance relevant to the construction industry, the City Council adopted Ordinance No. 895, establishing interim regulations authorizing outdoor seating on private property and within approved public right-of-way; and

WHEREAS, the interim regulations adopted by Ordinance No. 895 will expire on January 27, 2021 unless extended by the City Council; and

WHEREAS, despite public and private efforts to address the COVID-19 pandemic, Washington State, including King County, is experiencing a substantial increase in the spread of COVID-19; and

WHEREAS, such efforts include Proclamation 20-25.1, approving criteria for a limited Phase 1 statewide restart of construction activities; Proclamation 20-25.3, updating a four-phased approach to safely reopening the State and further expanding the list of permissible low risk Phase 1 activities; Proclamation 20-25.4 providing for a transition from the "Stay Home – Stay Healthy" restrictions to the "Safe Start-Stay Healthy" County by County Phased Reopening plan; however, due to the increased COVID-19 infection rates across the state, Governor Inslee ordered a freeze on all counties moving forward to a subsequent phase, and these restrictions remain in place; and

WHEREAS, on November 15, 2020 Governor Inslee issued Proclamation 20-25.8 which rolled back the phased reopening in response to a COVID-19 outbreak surge. The latest restrictions place limits on social gatherings, close indoor operations in restaurants, bars, entertainment venues, and fitness centers, and restrict occupancy in retail, grocery, professional services and other facilities until at least December 14, 2020; and

WHEREAS, the extension of the previously enacted interim regulations for an additional six months period will allow eating and drinking establishments to continue to utilize outdoor areas

so as to maintain the viability of their businesses and provide the community with opportunities outside of their homes in a safe manner; and

WHEREAS, interim regulations are exempt from SEPA review per WAC 197-11-800(19) Procedural Actions. If the City elects to replace these interim regulations with permanent regulations, if applicable, SEPA review will be conducted at that time; and

WHEREAS, the City Council considered the interim regulations at its properly noticed December 14, 2020 meeting, at which it held the statutorily required public hearing, held virtually via Zoom; and

WHEREAS, eating and drinking establishments have suffered significant financial impacts, and the establishment of interim regulations of six months in duration will provide certain outdoor space for eating and drinking establishments to utilize for seating consistent with the Safe Start Plan during this time of economic downturn; and

WHEREAS, permitting establishments to utilize certain portions of the public right-of-way or private property for outdoor dining will assist in mitigating the impact these establishments have endured due to COVID-19; and

WHEREAS, the City Council has determined that the use of the interim regulations is appropriate and necessary due to the current economic conditions resulting from COVID-19 and, therefore, it is in the best interests of the citizens of the City of Shoreline to provide for outdoor dining within certain public right-of-way and on private property;

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

Section 1. Adoption of Findings of Fact. The City Council hereby adopts the above Recitals as findings of fact to support the adoption of this Ordinance and incorporates by reference the Recitals set forth in Ordinance No. 895.

Section 2. Interim Regulations. Legally permitted eating and drinking establishments existing as of the effective date of Ordinance No. 895 may establish temporary outdoor seating areas as provided in the provisions set forth in this section:

A. Use of Parking Lots on Private Property.

1. Eating and drinking establishments with access to a private parking lot may use this area for outdoor seating provided:
 - a. The owner or owner's representative submits an Outdoor Seating Area Registration on official form(s) as prescribed and provided by the Department of Planning and Community Development.
 1. There shall be no submittal fee for the Outdoor Seating Area Registration.
2. Any provision contained in a Registration is not intended to interfere with or supersede any contractual obligations and Registrants are solely responsible for ensuring authorization from the property owner to utilize the area.
3. In relationship to outdoor seating areas within private parking lots, the following sections of the Shoreline Municipal Code are suspended:

- a. SMC 20.30.295: Temporary Use Permit.
- b. SMC 20.50.390: Minimum off-street parking requirements, provided ADA-accessible stalls are still provided, as may be necessary to comply with ADA standards.

B. Use of Public Right-of-Way.

- 1. Eating and drinking establishments with access to areas such as public sidewalks, on-street parking, or other public space (Public right-of-way) may use these areas for outdoor seating provided:
 - a. The owner or owner's representative shall submit a right-of-way site permit application utilizing official forms provided by the Department of Public Works as required by SMC 12.15.040.
 - b. The Departments of Public Works and Planning and Community Development shall take reasonable steps to review and render a decision on the permit application no more than seven (7) business days after application intake.
 - c. The Director of Public Works shall have discretion to modify standards set forth in the Engineering Design Manual without use of the formal deviation procedures as may be necessary to effectuate the intent of these interim regulations.
- 2. In relationship to outdoor seating areas within the public right-of-way, the following sections of the Shoreline Municipal Code are suspended:
 - a. SMC 3.01.010(J)(4): Right-of-way site permit fee.
 - b. SMC 12.15.030(C)(4): Periodic Use fee.

C. Conditions Applicable to all Outdoor Seating Areas.

The following provisions are applicable to all Outdoor Seating Area Registrations or Right-of-Way Site Permits.

- 1. All outdoor seating areas allowed by these interim regulations shall be operated in a safe and sanitary manner and are subject to the following terms and conditions to ensure compliance with:
 - a. 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 Electric Code;
 - b. SMC 9.05 Noise Control;
 - c. All applicable licensing requirements of the Washington State Liquor and Cannabis Board;
 - d. Accessibility requirements of the Americans with Disabilities Act (ADA);
 - e. 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;
 - f. The Seattle/King County Public Health COVID-19 guidelines for restaurants; and
 - g. Washington's Safe Start Re-Opening Phasing Plan, including any directives issued by the State of Washington.
- 2. An Outdoor Seating Area Registration or an Outdoor Seating Area Right-of-Way Permit shall be effective for the duration of this Ordinance and any extension thereof. If the City has not adopted permanent regulations permitting outdoor seating areas, these areas shall be removed and restored back to their original condition. If the City has adopted permanent regulations, then continued use of the outdoor seating area

shall be subject to such regulations, including but not limited to, obtaining a permit and paying any required fees.

3. The failure of an eating or drinking establishment to adhere to the terms and conditions set forth in the Registration or Permit, or to be found operating in a manner that creates a public nuisance, may result in modification, suspension, or revocation of the Registration or Permit. If revoked, the establishment shall not be permitted to operate another outdoor seating area during the duration of this Ordinance, and any extension thereof unless separate permit approval is granted by the Director of Planning and Community Development, which may contain additional conditions. Approval of said permit shall be in the Director's sole discretion.

D. Shoreline Fire Department.

Subject to approval by the Shoreline Fire Department, Fire Operational permit fees as set forth in SMC 3.01.020 may be waived or reduced for outdoor seating areas.

E. Liberal Construction.

The Director of Planning and Community Development and the Director of Public Works are hereby authorized to liberally administer the Outdoor Seating Area program established by this Ordinance to effectuate the City Council's intent of these interim regulations. This authority includes the imposition of any condition necessary to ensure the public health and safety and the promulgation of rules of procedures to effectuate the program.

Section 3. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council held a public hearing on the extension of the interim regulations on December 14, 2020. Pursuant to the Washington State Governor's Proclamation 20-28, as amended, and City Council Resolution No. 459, the public hearing was held online using the Zoom Webinar platform.

Section 4. Directions to the City Clerk.

- A. Transmittal to the Department of Commerce.** The City Clerk is hereby directed to cause a certified copy of this Ordinance to be provided to the Director of Planning and Community Development who shall transmit the Ordinance to the Washington State Department of Commerce within ten (10) calendar days of passage as provided in RCW 36.70A.106.
- B. Corrections by the City Clerk.** Upon approval of the City Attorney, the City Clerk is authorized to make necessary corrections to this Ordinance, including the correction 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.
- C. Ordinance not to be Codified.** Because this Ordinance adopts interim regulations, the City Clerk shall not codify this Ordinance.

Section 5. Reservation of Rights.

1. The City reserves the right to inspect any outdoor seating area to ensure compliance with the terms and conditions of the Registration or Permit.

- 2. The City reserves the right, at its discretion, to suspend the provisions of this Ordinance in furtherance of the public health and safety of the residents of the City of Shoreline.

Section 6. 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 7. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper.

Section 8. Duration. This Ordinance shall be in effect for a period of six (6) months from its effective date, which shall be five (5) days after the date of publication. After which, these interim regulations shall automatically expire unless extended as provided by statute or otherwise superseded by action of the City Council, whichever occurs first. The City shall provide reasonable notice to Registrants and Permittees no less than twenty-one (21) calendar days prior to the expiration of these interim regulations.

PASSED BY THE CITY COUNCIL ON JANUARY 11, 2021.

Mayor Will Hall

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: _____, 2021
Effective Date: _____, 2021

Date of Transmittal to Commerce: _____, 2021