



AGENDA

PLANNING COMMISSION

VIRTUAL/ELECTRONIC REGULAR MEETING

Thursday, December 16, 2021
7:00 p.m.

Held Remotely on Zoom
<https://us02web.zoom.us/j/88316293470?pwd=U24ya0MwNXROMHI1cW5KZXBCVINpUT09>
Passcode: 493713

In an effort to curtail the spread of the COVID-19 virus, the Planning Commission meeting will take place online using the Zoom platform and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online; join the meeting via Zoom Webinar; or listen to the meeting over the telephone.

The Planning Commission is providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral public comment. To provide oral public comment you must sign-up by 6:30 p.m. the night of the meeting. Please see the information listed below to access all of these options:



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Pre-registration is required by 6:30 p.m. the night of the meeting.



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Written comments will be presented to Council and posted to the website if received by 4:00 p.m. the night of the meeting; otherwise they will be sent and posted the next day.

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00
2. ROLL CALL	7:01
3. APPROVAL OF AGENDA	7:02
4. APPROVAL OF MINUTES FROM:	7:03
a. December 2, 2021 - Draft Minutes	

Public Comment and Testimony at Planning Commission

During General Public Comment, the Planning Commission will take public comment on any subject which is not specifically scheduled later on the agenda. During Public Hearings and Study Sessions, public testimony/comment occurs after initial questions by the Commission which follows the presentation of each staff report. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign-up by 6:30 p.m. the night of the meeting. Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed. In all cases, speakers are asked to state their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted

to speak. Generally, individuals may speak for three minutes or less, depending on the number of people wishing to speak. When representing the official position of an agency or City-recognized organization, a speaker will be given 5 minutes. Questions for staff will be directed to staff through the Commission.

5. GENERAL PUBLIC COMMENT	7:04
6. STUDY ITEMS	
a. <u>Outdoor Seating Development Code Amendment</u>	7:05
7. UNFINISHED BUSINESS	7:45
8. NEW BUSINESS	7:46
9. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS	7:47
10. AGENDA FOR Next meeting – January 6, 2022	7:55
11. ADJOURNMENT	8:00

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457.

DRAFT
CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
(Via Zoom)

December 2, 2021
7:00 P.M.

Commissioners Present

Chair Mork
Vice Chair Sager
Commissioner Callahan
Commissioner Galuska
Commissioner Lin

Staff Present

Rachel Markle, Planning Director
Andrew Bauer, Planning Manager
Steve Szafran, Senior Planner
Carla Hoekzema, Planning Commission Clerk
Julie Ainsworth-Taylor, Assistant City Attorney

Commissioners Absent

Commissioner Malek (excused)
Commissioner Rwamashongye (excused)

CALL TO ORDER

Chair Mork called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Ms. Hoekzema called the roll.

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of November 18, 2021 were accepted as presented.

GENERAL PUBLIC COMMENT

There were no general public comments.

STUDY ITEM: 2021 DEVELOPMENT CODE AMENDMENTS – BATCH #2 – TREE AMENDMENTS

Staff Presentation:

Senior Planner Szafran explained this was a continuation of the Development Code Amendments discussion from the November 18 meeting.

Public Comment:

Isis Charest, Shoreline, Tree Preservation Code Team member, thanked everyone for their work on this Tree Code. She expressed concern about the climate crisis and the impact of the focus on monetary wealth over trees, the environment, and human health.

Rebecca Jones, Seattle, Tree Preservation Code Team member, spoke regarding Amendment #2, definition of Landmark Tree. With increasing development there are significant numbers of trees that have been and will be lost. She spoke in support of the Landmark Tree definition as proposed by the Code Team with the measurement of 24” Diameter at Breast Height (DBH).

Gayle Janzen, North Seattle, Tree Preservation Code Team member, spoke in support of Amendment #8 and reiterated a request for the Planning Commission to ask staff to work on appropriate incentives to accompany this code revision.

Martha Diesner, Shoreline, Tree Preservation Code Team member, urged the Planning Commission to balance development with greater protection of the urban tree canopy.

Melody Fosmore, Shoreline, Tree Preservation Code Team member, spoke regarding Amendment #10, Tree Replacement. The current code allows the Director to reduce the number of replacement trees. She encouraged a more equitable approach to the tree replacement policy. On behalf of the Code Team, she asked the Planning Commission to support Amendment #10.

Wally Fosmore, Shoreline, Tree Preservation Code Team member, spoke regarding Amendment #6, General Requirements. This amendment pertains to the protection of significant trees on development sites including stop work orders and penalties if trees are injured or destroyed in construction. The Code Team agrees with deleting the words “and vegetation.” For clarification, items L1, M1, and M2 do not apply to single property owners but to new multifamily residential and developments on MUR35 and MUR 45 zones. The penalties proposed for impacts to significant and non-significant trees as included in the proposed code are already in city code. The Code Team has asked staff to work on acceptable language for L1, M1, and M2.

Barbara Johnstone, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment #7, Exemptions from Permit, in order to preserve the urban tree canopy. The Code Team concurs with staff regarding equitable treatment of Shoreline property owners and urged the Planning Commission to recommend Amendment #7.

Kathleen Russell, Shoreline, Tree Preservation Code Team member, spoke regarding Amendment #9, which has been recommended by staff. This amendment regarding tree retention asks that the word “waive” be included in this code. The Planning Department already has authority to “allow reduction in the minimum significant tree retention.” Staff has tied this amendment to the approval of Amendment #8, the proposed tree retention of 25%. The Code Team respectfully asks that the terms “waive” and “reduce” be eliminated to provide equity among property owners.

Bill Turner, Shoreline, Tree Preservation Code Team member, spoke in support of Amendment #2, item 6, Significant Tree definition which they believe should be any healthy tree 6” DBH or greater excluding trees that qualify for complete exemptions. This would bring Shoreline into agreement with most of the region by providing protection for more conifer and native trees.

Susanne Tsoming, Shoreline, Tree Preservation Code Team member, commented that the Code Team’s recommendations are not drastic and do not apply to seven zones where major construction is taking place and developers can currently remove all the trees with no replacements required. The Code Team’s proposals only apply to construction on residential zones MUR 35 and MUR 45. She spoke in support of the amendments proposed by the Code Team to the City Council.

Staff Presentation: Senior Planner Szafran made a PowerPoint presentation regarding the remaining amendments:

- Amendment #2 – Landmark Tree definition.

Commissioner Lin asked if there are excessive black locust trees and if they need to be excluded like some other cities do. Senior Planner Szafran replied that staff does not have that information. Commissioner Lin expressed support for moving forward given staff’s comfort level with this.

Commissioner Callahan asked if further review of the Significant Tree topic would also include looking into the Heritage Trees. Senior Planner Szafran explained that the applicant had originally proposed adding the definition of Heritage Tree. Staff’s attempt was to meld that into the existing definition of Landmark Tree instead of having a new definition of Heritage Tree. Commissioner Callahan asked what would be involved with further study of this. Senior Planner Szafran explained that the only portion of this amendment staff disagrees with is the diameter. Staff recommends leaving the measurement at 30” DBH.

Commissioner Galuska asked for clarification of the difference between the current definition and the proposed definition of Landmark Tree. He noted that this is a significant policy question of when a tree can be removed. He commented he was not clear about what the policy would entail to designate a Landmark Tree. Senior Planner Szafran reviewed what the current process is.

Chair Mork asked how many Landmark Trees the City of Shoreline has registered. Senior Planner Szafran replied that he has never processed one in 17 years. Director Markle added that no one has ever nominated a tree for a Landmark Tree which is why there have been none approved.

- Amendment #6: General Requirements – This would add a couple sections into the general requirements for tree conservation including Best Management Practices, unauthorized development site violations, Requirement for Restoration Plan, Site Investigation, Penalties, and Financial Guarantee Requirements. Staff is in some agreement with the language proposed but believes the proposed language regarding Penalties and Financial Guarantee Requirements may be unduly burdensome to the property owners. The language originated in the Critical Areas code where penalties are warranted. Staff does not support applying those penalties to removing small trees, shrubs or landscaping on a typical single-family lot. Additionally, there is some conflict with other areas of the code. Staff needs more time to review this and recommends that the amendment moves forward without those two sections (L and M).

Vice Chair Sager asked what would happen next if they were to move forward without items L and M. Senior Planner Szafran stated that at the Public Hearing the Commission could request that staff study L (Penalties) and M (Financial Guarantee Requirements) and possibly add it to staff's future work plan.

Chair Mork asked if item M2, the Maintenance Agreement, should be included. Senior Planner Szafran replied that staff's recommendation is that all of L and all of M be excluded. The maintenance agreement is very involved. It is typical in critical areas situations but is not recommended to be included for every property in Shoreline. Chair Mork requested that Ms. Russell forward staff a picture of a particular retained tree in an MUR45 zone which was in poor condition and demonstrated their concern.

- Amendment # 7 – Exempt from Permit – This is a proposal to change the way the City handles trees that would be exempt from permit.

Commissioner Galuska asked the current level of exemption. Staff reviewed this. This proposal would put a cap on bigger properties.

Vice Chair Sager spoke in support of the change in diameter to 24 inches DBH in B2.

- Amendment #9 – Significant Tree Retention – This is a staff-proposed amendment which would allow the Director to waive or reduce significant tree percentage.

Chair Mork noted there was interest in what kind of circumstance would warrant this kind of situation and if an allowance for that could just be written in. Senior Planner Szafran explained that it would apply if *the provisions of the Code would jeopardize reasonable use of the property such as damage to a foundation, sewer, or power lines*. Chair Mork wondered if it could be more specifically defined in order to minimize the number of times that it would be done for unknown reasons. Senior Planner Szafran replied that the justification is stated on the permit, and this is available to anyone in the public.

Commissioner Lin asked if this has ever been used to maximize a building footprint. Senior Planner Szafran recalled two requests and both had been denied by the Director. Commissioner

Lin spoke in support of flexibility and of spelling out the conditions more clearly when this could be used.

Director Markle provided examples of situations when it makes sense to waive or reduce retention of trees. She also spoke in support of putting in a bullet related to trees' impact on utilities. Commissioner Lin asked if developers are required to do fee-in-lieu if the number of trees is reduced. Staff replied that the developer must supply the replacement trees on site, but sometimes there are issues associated with this.

Commissioner Callahan noted that Redmond requires the applicant to request the exemption in writing. She wondered if that would be something Shoreline could do to provide more transparency. Director Markle noted that the applicant already is required to provide the request in writing. She clarified that staff may give some direction, but the action is always initiated by the applicant.

Commissioner Galuska recommended staff tweak the criteria in the first bullet point to make sure they match the situations that this code would address.

- Amendment #10 – Replacement trees on site – This would allow fee-in-lieu of tree replacement at the discretion of the Director. Staff is recommending not to adopt this. Staff believes the Director should have the ability to reduce the number of trees on site. After reduction, the applicant would still have to pay for the ones that couldn't be replaced. He clarified that the 2020 update requires the fee-in-lieu, but this wasn't the case prior to that update.

Chair Mork asked for clarification about what the applicant is requesting regarding incentives. Senior Planner Szafran explained the Planning Commission could ask Council to put that into an upcoming work plan to create incentives for increased tree retention standards. Chair Mork expressed support for incentives.

Commissioner Lin asked about the applicant's suggestion that the Planning Commission could forward all of this to the Council to decide since there are time constraints. Senior Planner Szafran affirmed that following the public hearing, the Planning Commission can accept all the changes that the applicant recommended or what staff recommended or any combination of the two.

Next steps will be a final discussion on the entire Batch #2 in January, 2022 and then the Public Hearing in February 2022.

STUDY ITEM: MUR 70' ZONE DEVELOPMENT REGULATIONS DISCUSSION

Planning Manager Bauer reviewed background on this item which was discussed at the joint Council/Planning Commission meeting and upcoming actions. Takeaways from that meeting include:

- Parking reductions should have conditions to offset the impacts
- Elimination of parking minimums should not be considered as a potential option
- If impact fee waivers are considered, then further analysis should be provided to understand impacts

- If additional height over 70 feet is considered without a development agreement, then the most meaningful development standards should be included as requirements and the development agreement process should be revised to be no longer required to achieve that additional height.
- Any amendments should continue to align with the core goals of both the city and the subarea plans.

Next steps included the development of draft amendments to the MUR70 zone, outreach to get feedback on amendments, and returning to Planning Commission in the first part of 2022

Discussion:

Commissioner Callahan commented that it appears clear that parking reduction would be a good first step to talk about and work on. It is also the big thing that has been mentioned regarding affordable housing and one of the biggest issues that has been raised by third party assessment. She suggested linking a reduction in parking requirements with having a car share program on site.

Commissioner Lin noted the overall development parcel size is something that should be considered when looking at allowing increased heights so that it is proportional. She suggested providing more open space and possible linkage with other parcels as mitigation for the increased height.

Commissioner Galuska commented it is premature to make any changes in the development code in that area because they haven't seen any development there yet. He suggested looking at a larger parking discussion including Aurora and other areas where they expect to see large amounts of multifamily.

Chair Mork echoed Commissioner Callahan's support for looking at ride-share programs. She also agreed that the parking discussion should not only be limited to the MUR70 zone. She referred to the mobility hubs which had been previously discussed and suggested that those could possibly be worked into the property.

Planning Manager Bauer explained that catalyst development incentives are a way to encourage early developments. It is looking likely that even if they adopt an amendment with a catalyst development incentive there would already be one to three developments underway by the time it is adopted. Given that they are seeing continued interest in the MUR70 zone, he asked if the Planning Commission is interested in looking at some of those development incentives.

Commissioner Lin suggested starting with parking and heights. Commissioner Callahan concurred. Commissioner Galuska agreed. He doesn't think development is stuck because of regulations, but that it will just take time for people to come develop. Vice Chair Sager agreed; parking is her highest priority.

Planning Manager Bauer then asked if there is interest in exploring increased heights above 70 feet without a development agreement.

Commissioner Lim hoped there would be flexibility for heights because those higher density areas are where they are lacking trees and open space. If they allow more height there may be some hope for increased open space in those zones.

Vice Chair Sager stated she would not support anything over 70 feet. She doesn't believe it would fit aesthetically in Shoreline.

Commissioner Galuska commented that in general, he prefers to let the regular zoning stand, but he would consider a discussion about increased heights and development agreements.

Chair Mork asked about height limits for CLT (Cross Laminated Timber) construction. Planning Manager Bauer thought from a zoning standpoint CLT is the same height limit. Since it is a relatively newer construction technique, it is still cost prohibitive to go above 70 feet whether it is CLT or steel frame. Chair Mork expressed an interest in finding out more about that. She summarized the Planning Commission's desire to focus on parking as the first priority with height being the second priority and catalyst incentives way down on the list. Staff will look at different ways to offer more parking and height flexibility.

Commissioner Callahan referred to development examples that had been provided by staff showing ground floor commercial and asked if ground floor commercial was required. Planning Manager Bauer replied that it is not required now, but it is required to be built to a height that would allow the ground floor to be converted at some point in the future. One building that is being proposed is right at the light rail station where commercial should be able to be supported. The other is at 145th.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

REPORTS OF COMMITTEES AND COMMISSIONER ANNOUNCEMENTS

Chair Mork announced that she attended the City of Shoreline's Climate Change event which was online on Tuesday night. It was interesting to hear what Shoreline is working on regarding this topic. She reported that she will be resigning before the end of the year, and that she has enjoyed working with everyone.

AGENDA FOR NEXT MEETING

The next meeting is scheduled for December 16, 2021. The topic will be permanent outdoor seating regulations to replace interim regulations that were put in place during the pandemic.

ADJOURNMENT

The meeting was adjourned at 8:53 p.m.

4a. Draft Minutes from December 2, 2021

Laura Mork
Chair, Planning Commission

Carla Hoekzema
Clerk, Planning Commission

DRAFT

6a. Staff Report - Outdoor Seating Development Code Amendment

Planning Commission Meeting Date: December 16, 2021

Agenda Item: 6a.

PLANNING COMMISSION AGENDA ITEM CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Outdoor Seating Development Code Amendment

DEPARTMENT: Planning & Community Development

PRESENTED BY: Cate Lee, AICP, Senior Planner

Public Hearing

Study Session

Recommendation Only

Discussion

Update

Other

Introduction

The purpose of this discussion is to:

- Provide background and an overview of existing interim regulations.
- Present preliminary research findings from other jurisdictions' codes.
- Receive comments and direction from the Planning Commission.
- Gather public comment.

Interim regulations for outdoor seating areas went into effect on July 27, 2020 ([Ordinance No. 895](#)). The interim regulations were initially adopted in response to the pandemic-related restrictions for indoor seating and allow existing eating and drinking establishments (e.g. restaurants and bars) to expand their seating areas outside. As indoor seating restrictions have eased, the interim regulations continue to provide flexibility for businesses to adapt to the evolving pandemic and customer's comfort with indoor seating. The interim regulations allow for seating on private property (e.g. parking lots) and on City right-of-way (e.g. sidewalks).

RCW [35A.63.220](#) and [36.70A.390](#) authorize the City Council to adopt interim regulations with a duration of no more than six (6) months without review and recommendation by the Shoreline Planning Commission. Council has reviewed and extended the interim regulations in six-month increments and they remain in effect. Council has directed staff to bring forward to the Planning Commission permanent regulations for outdoor seating, which would take the place of the interim regulations.

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 and dining areas so that lost capacity due to indoor seating restrictions can be at least partially offset while still adhering to the

Approved By:

Project Manager _____

Planning Director _____

6a. Staff Report - Outdoor Seating Development Code Amendment

Safe Start Washington Plan. Shoreline's interim regulations for outdoor seating areas went into effect on July 27, 2020.

One way to allow expanded seating while still adhering to the State's indoor seating restrictions was to allow for outdoor seating areas on both private property (e.g. parking lots) and on City right-of-way (ROW).

Below is an overview of the key components of the interim regulations which authorize use only for eating and drinking establishments:

- *Use of Public Right-of-Way*

A ROW site permit is required for businesses to use City ROW for outdoor seating. The interim regulations give discretion to the Director of Public Works to modify Engineering Design Manual standards in order to implement the regulations without going through a formal deviation process. The interim regulations require the City take steps to complete the review and issue a decision on an application no more than seven business days after intake of the application. This is an expedited review compared to the typical ROW permit which on average takes four weeks or more.

- *Use of Parking Lots on Private Property*

Eating and drinking businesses are allowed to establish outdoor seating areas on their privately-owned parking lots after filing an Outdoor Seating Area Registration form with the City. The registration form is simple but requires the business to acknowledge they will comply with applicable life-safety and public health provisions.

The Temporary Use Permit requirements in Shoreline Municipal Code (SMC) 20.30.295 are suspended for outdoor seating. As such, a Temporary Use Permit is not required. In addition, the off-street parking requirements are suspended to allow outdoor seating areas to occupy parking lots without the need to provide parking (for either the indoor or outdoor portions of the business).

- *Fees*

The interim regulations waive the application fee and ROW use fee for the ROW site permit. They also note there is no fee for filing of an Outdoor Seating Registration on private property.

A provision is included for either reduced or waived fees for Fire Operations Permits, subject to approval by the Shoreline Fire Department.

- *Effective Date and Duration*

6a. Staff Report - Outdoor Seating Development Code Amendment

The interim regulations under Ordinance No. 895 were effective for six-months (until January 27, 2021) and renewable in six-month increments. Interim ordinances are authorized by RCW 36.70A.390 and RCW 35A.63.220 and may be adopted without holding a public hearing provided one is held within 60 days of adoption of the interim regulations.

- A public hearing was held at the August 10, 2020 City Council meeting, no public comments pertaining to this item were made at the meeting.
- The interim regulations were extended under [Ordinance No. 917](#) on January 11, 2021, which were effective until July 11, 2021.
- The interim regulations were extended again under [Ordinance No. 936](#) on June 21, 2021, which are effective until December 29, 2021.
- The interim regulations are anticipated to be extended again by proposed Ordinance No. 952, which is scheduled for Council action on December 13, 2021.

Outdoor Seating Registrations

Five (5) businesses filed outdoor seating registrations on private property. The businesses that have registered are:

1. Club Hollywood Casino (16716 Aurora Ave N), July 2020 (no longer operating outdoor seating area)
2. Easy Monkey Taphouse (17211 15th Ave NE), November 2020
3. Goldie's Shoreline Casino (15030 Aurora Ave N), July 2020 (no longer operating outdoor seating area)
4. Monka Brewing (17211 15th Ave NE), September 2020
5. Woody's Bar (19508 Aurora Ave N), July 2020

No applications were submitted for outdoor seating in the public right-of-way.

Research

Outdoor dining regulations have historically just addressed dining in the public right-of-way (ROW), widely familiar as the sidewalk cafés popular in European cities and larger U.S. cities, that over time became more popular in small and mid-sized U.S. cities with historic or traditional downtowns. Covered outdoor dining on private property attached to buildings have typically been reviewed and approved as part of the building permit process and do not have separate review and approval processes. Since the global COVID-19 pandemic began we've seen the need for a new type of outdoor dining, the conversion of surface parking lots into outdoor seating areas.

As a suburban community with no historic downtown or district, the typical sidewalk café is unlikely to be the dominant outdoor dining type here in Shoreline. However, we do have a proliferation of surface parking lots, some of which may contain more parking stalls than are needed on a typical day and could be put to better use as active outdoor dining and seating areas. These outdoor areas serve a dual purpose, they provide greater safety from a public health perspective, and allow small business owners to convert inactive, underutilized space into active and attractive areas for people instead of vehicle storage.

6a. Staff Report - Outdoor Seating Development Code Amendment

City staff conducted an initial review of jurisdictions outdoor seating regulations. Ten (10) cities were included in this research:

1. Bellevue, WA
2. Chicago, IL
3. Edmonds, WA
4. Los Angeles, CA
5. Paris, France
6. Portland, OR
7. Redmond, WA
8. Salt Lake City, UT
9. San Francisco, CA
10. Seattle, WA

Most regulations were for traditional “sidewalk café” type of outdoor dining (in the public right-of-way), although a few addressed outdoor seating on private property which is not common even in large cities. Most have temporary outdoor dining regulations, and some have permanent sidewalk café regulations. Key features of these regulations include:

- Accessibility for ADA.
- Fire/life-safety access is built into the design through regulation of review, or standard design guidelines.
- In coordination with neighbors, businesses may apply to work within their property/frontage but can combine to get a larger permitted area.
- For use in the ROW, all U.S. cities require insurance, indemnity, and hold harmless agreements.
- Many regulations are temporary, and only Chicago, San Francisco, and Los Angeles are codified for ROW closures.
- There are seasonal types of permits and annual permits. All but Salt Lake City put limitations on how long a permit is valid.
- Each jurisdiction has specific criteria that it needs for compliance, e.g., public space, material choice, safety regulations.
- Common restrictions include heat, electricity, structure (enclosure), amplified music, sight, signage, and garbage receptacles.
- Cities varied in permanence of the outdoor portion. Many regulations were temporary in nature. A permanent solution to parking may be to incorporate it into design/site approval.
- Each City had specifics for aesthetics. To improve streamlining and provide for developer creativity, we may just recommend specific parameters for design and let it be optional on how to carry out the intent. We can also provide some sample/pre-approved materials/designs for some standard spaces to help businesses visualize what is possible.
- Paris and San Francisco had specifics for penalties and violations. Other cities relied on existing ROW penalties and code violation practices.
- Publishing multilingual guides in advance for inclusivity stood out as a best practice.

6a. Staff Report - Outdoor Seating Development Code Amendment

Whether on private property or within the public ROW, certain best practices apply to both, such as ADA accessibility.

Attachment A includes a more detailed summary of the regulations reviewed.

Planning Commission Input

City staff would like input and feedback from the Planning Commission on next steps for developing a draft code amendment. Given the information in this staff report, staff has the following questions, as a starting point, for receiving feedback:

1. Is there additional research you would like to see?
2. What other types of community engagement would you like to see?
3. What requirements do you see as essential in having a successful outdoor use code?
4. What ways do you want the city to engage and help small businesses on providing these spaces?
5. What are your thoughts on reducing, or eliminating, surface parking on private property to establish these outdoor spaces?

Please share any other thoughts not covered in the listed questions above.

Public Engagement

As part of the interim regulations, staff engaged ten local restaurants and bars, with seven expressing interest in the potential for outdoor seating. Notifications to businesses about the interim outdoor seating program were included in:

- A B&O tax deferral update sent by USPS mail on August 15, 2020 to all licensed businesses with a Shoreline location.
- An update to the City's COVID-19 Business Response website (shorelinewa.gov/C19BizResponse).
- An email to approximately 1,000 individuals signed up for COVID-19 Business Support Response Team e-Notifications.

As part of the public engagement for the permanent regulations, City staff plans to reach out to business owners who have registered using the current interim regulations to get feedback on what works well for them and what types of assistance from the City would further facilitate more widespread use.

Staff is exploring other ideas for community engagement and is open to your input and suggestions.

Next Steps

The next steps on this project include:

6a. Staff Report - Outdoor Seating Development Code Amendment

- Research and explore directives from the Planning Commission.
- Reach out to business owners who have registered using the current temporary regulations.
- Pursue other community engagement strategies.
- Compose draft regulations.
- Hold study session(s) and a public hearing before the Planning Commission.
- Present the proposal to the City Council.

The tentative schedule for the Outdoor Use Development Code amendments is as follows:

February 2022	Planning Commission meeting: Study session #1 on the Outdoor Use Development Code Amendments.
March 2022	Planning Commission meeting: Study session #2 on the Outdoor Use Development Code Amendments. (Or this could be public hearing if a second study session is not needed)
April 2022	Planning Commission Meeting: Public Hearing on the Outdoor Use Development Code Amendments.
May/June 2022	City Council Study Session and Action on proposed Outdoor Use Development Code Amendments.

Attachments

Attachment A – Outdoor Dining Research

Outdoor Dining Research										
	Bellevue (Interim)	Chicago (Permanent)	Edmonds (Currently Amending)	Los Angeles (Interim)	Paris (Interim)	Portland (Interim)	Redmond (Interim)	Salt Lake City (Interim)	San Francisco (Permanent)	Seattle (Interim)
Where is it Allowed	ROW (sidewalk and parking spaces); private property (with TUP)	ROW (sidewalks only, not in amenity zone/planting area)	Specific zones subject to criteria; "Streatery" is a parklet located in a ROW parking space; not allowed in travel lanes, ADA parking stalls, in front of fire hydrants, bus stops, or over storm catch basins	ROW (sidewalk, parking spaces (two space size limit, or 40' length max), and travel lanes, only on streets with max 30 mph speed limit); private property	ROW (sidewalk, parking areas, travel lanes); different rules for different areas much like zoning	ROW (sidewalk and parking spaces); private property	ROW (sidewalk and parking spaces); private property parking areas	Sidewalks only	ROW (sidewalk); variety of "Shared Spaces" e.g., City owned property; private property	ROW (sidewalks, parking spaces, travel lanes); private property depending on permit
Who Can Apply	Restaurants; ROW only allowed with Sidewalk Permit	Business owners in good standing with alderman's recommendation	Property owners who are properly zoned and licensed food or beverage establishments	Works specifically with chamber of commerce, BIDS, and business groups; can apply in groups/blocks to use multiple on-street spaces and lots	Agreements with neighbors for permission to expand or joint ventures	Property owners/representative; can coordinate with neighboring businesses to close larger areas to vehicle traffic	Property owners/representatives who meet the requirement	Restaurants	Unspecified	Restaurants, food trucks, merchants wanting curb displays
Access/Clearance	ROW: 4'-7' depending on road type 6'-8" - 8' vertical clearance	ROW: 6' minimum clearance; 1' from curb edge minimum	ROW: 5' width 7' height clearance; clearance can't include curbing, planting strips or ramps; outdoor tables and chairs can be reduced to 4' width in front of obstacles (trees, lights, poles)	6' clearance for pedestrian and ADA Access	ROW: 6' clearance for pedestrian and ADA access	ROW: 8' - 5'-6" depending on sidewalk width; 7' height clearance	5' clear path	ROW: 6', 8', or 10' depending on zone	8' pedestrian/ADA clearance; maybe 6' on case by case exception; 7' height clearance	Not specified; applicant is solely responsible for ADA compliance
Insurance Requirements	ROW: Different insurances required based on use permit	ROW: Must have insurance; alcohol use must be approved by regulatory authority	ROW: Insurance and Hold Harmless Agreement Required	ROW: Insurance required, city business license required, hold harmless required	Unspecified	ROW: Must have insurance	ROW: Hold Harmless and Certificate of Insurance and Endorsement	ROW: Insurance required	ROW: Indemnity/liability insurance	ROW: Required
Operating Times	8am to 10pm; annual renewals; Jan 1 to Dec 31 for biennial renewals	8am - 12am; year round operation	Adjacent to residentially zoned property must be closed between 9pm - 8am; permitted for no more than 1-year but may be extended in 3-6 month increments	6am - 11pm, remove from ROW nightly for sidewalk permit	10pm closing time unless a problem exists (can get special exception to operate up until 2am); annual renewal; limited months 1 April to 31 October, all year permits are also available	Each permit ends December 31st of issued year	Tents can be erected for temporary use for no more than 180 days; from Oct 1 to May 1 unless permitted by IBC/IRC	No specified limit	Initial curbside 1-year conditional approval; renewal options of annual terms; roadway terms are 2-years each with 2-year renewals; City Lots have a 5-year term with 5-year renewals; renewals are treated like new permits	Allowed up to 6-months for up to 4 hours daily
Site Specifics	Must stay in permitted area	Must conspicuously display the permit and approved plan	No additional parking required; if taking up excess on-site parking, a minimum of 1 ADA required; no more than 2 ROW streateries shall be located next to each other; ROW Streatery must be flush with sidewalk on an ADA accessible raised platform	For sidewalk use, must have at least 10' wide sidewalk	Unspecified	City chooses ground colors and paint types; 500' or less from transit street or 1500' or less from transit station doesn't need to provide parking on site	25% of private parking can be used for seating; cannot impact ADA compliance; tent size varying review by size	Barriers are design specific in material, height, and alcohol sale options	All shared spaces are accessible to the public (even if not a business patron) or provide alternate public seating (1 bench for 20' of linear site) must be included in permit application; private dining not allowed w/o providing alternative public seating	Merchandise, street vending (food trucks) outdoor dining are different permits with different requirements
Prohibitions	None	No complete enclosure, only awnings/canopies; heating equipment regulated by Fire (must be UL listed); cannot bring your own alcohol	No fuel burning heaters and open flames within 3-feet of any fabric unless approved by the Fire Marshal	No live entertainment or amplified music	No electronics, heat, commercial signage, sight obscuring elements; no solar, roof coverings, music speakers outdoors	Not allowed in residential parking lot; not allowed in employment zones; allowed in mixed use commercial zones for outdoor use; no outdoor cooking	Only on 30 mph or less streets (higher speed case by case); no encroaching into drive lanes; no interfering in Sightlines; not allowed on grades >5%; not in front of hydrants/manholes	Cannot obstruct sight distance triangle; no umbrella branding	No trash recepticals in ROW; no Outdoor space for nonconforming uses; no camping, no structures w/o permission; no smoking	Not allowed in loading zones or principal arterial streets (for curb locations)

Outdoor Dining Research										
	Bellevue (Interim)	Chicago (Permanent)	Edmonds (Currently Amending)	Los Angeles (Interim)	Paris (Interim)	Portland (Interim)	Redmond (Interim)	Salt Lake City (Interim)	San Francisco (Permanent)	Seattle (Interim)
Maximum Area Allowed	Frontage adjacent to building, curb or building but not both	Cannot be outside of business frontage	ROW: only between property owner's frontage and the curb; no more than 2 parking spaces in public ROW; Private parking: all but 1 ADA space	Can close underutilized streets/areas per LA DOT	Max Area is 100 sf; limits on size for year round permit	Depends on parking lot size and limited to property frontage/lines	2 parking spaces of the business frontage; no more than 4 spaces per block Shared spaces reviewed by staff; at least 1 space away from corner	Area adjacent to business	Varying depending on type of space sought	Unspecified
Responsibilities of Permittee	Must have outdoor tenant when patrons are present; copy of layout available for review; maintain area and adjacent for cleanliness; abate pests, no nuisances	Snow and Ice removal rules specific	Shall be removed with 24 hours notice for public events/emergency; installation and removal of all streatory components	Developer pays/maintains the livable/people streets area	Visibility is important; emphasis on being safe and FEELING safe	Unspecified	Ensuring all permits are obtained depending on layout	Maintain parking; if outdoor seating exceeds 500 sf then 2 spaces for every 500sf increment is required to be added	Responsible for 100' radius around the permitted space for maintenance; up to 30 minutes after the conclusion of hours of operation/event	Free tables and chairs from City must be secured overnight; maintain clear sidewalks
Permanence/Mobility	ROW: Nothing permanent; all seating/tables must be moveable	Unspecified	All temporary objects projecting more than 36" into ROW shall be removed daily at close of business; all barriers (except markers and marking) removed each day from ROW at close of business; each streatory must be protected at ends with water filled jersey barrier, planter of minimum 30" in height, or other approved barrier	LA DOT installs/removes/designs; fixtures are mobile and allowed to be modular to conform to many needs	Mobile or modular setups/ not fixed can have heat and electricity; tables, chairs, planters, menus can move to meet needs	Removed within 10-days when not available for use by patrons; case by case to remove outside of business hours	It's all temporary unless a parklet is created	Permanent fixtures such as gates are permitted; no storage of furniture in the public ROW allowed	Can have optional moveable parklet style or semi-permanent platforms; nothing may be affixed to the ground or made permanent.	Taken down when business is closed
Aesthetics	Material control; nothing on tree grates or planter areas; no carpets, coverings allowed in sidewalk area; only for food and beverage service; nothing else allowed	Beautification and landscaping requirements; plan must be submitted with application; no decks; not allowed under scaffolding	Subject to Architectural Design Review. Preferred Jersey barrier color is white and must include adequate lighting or reflective markings as approved by the city engineer. Must have screening adjacent and parallel to a traffic lane at least 30" in height and specific materials. above 36" in height, screening shall be transparent.	LA DOT has provided a catalog of approved fixtures and colors	Restrictions on barrier materials; Sightline is important	Specific Barricades to restrict vehicle access	No specific standards other than lighting	Specific material and signage regulations apply	Functional design guidelines	If having a fence, it needs cane detectability
Penalties	Suspension or revocation of permit. 3 notices within a year will result in 30 day suspension. After 1st violation city may require fees to cover inspection costs.	Citations/permit revocation	If the ROW Streatery is cited with more than 3 violations within 1-year it may be expired without allowance for extension; if it is not used for at least 15-days of any 30-day period the city may expire the permit for parking availability; notice of potential expiration is provided by city at least 10-days in advance of expiration	Can impound furnishings and assess impound fees; no fine over \$500	Code Enforcement: \$64 - \$500 fine for violation based upon type of infraction; can suspend ability to have outdoor are for period of time from 2-weeks to 3-years; double for repeat offenders	Post permit in conspicuous place; can be revoked	No specified different penalties	Standard Engineering ROW violations	Public notice must be visible in English, Filipino, Spanish, and Chinese on how to file complaints of a shared space; inspected every other month at a minimum	Not specified. Noise is specifically called out for complaints
Guide Accessibility	English; other languages available	Guide in English only	English only	Guides are multi-lingual	Guides published in advance	Spanish, Vietnamese, Russian, Chinese	English	English Only	English/Filipino/ Spanish/ Chinese postings	English, Thai, Chinese, Korean, Somali, Spanish, Tagalog, Vietnamese
Approving Authority	Bellevue Public Works	Chicago Department of Transportation	For ROW: Development Services Director or City Engineer; Building official and/or Fire Marshal approves any tents, canopies, fabric screens, and umbrellas	LA County Department of Public Works	District Mayor	Portland Bureau of Transportation	Planning Division; Temporary Approvals	Public Works	Director of Real Estate; PW responsible for ROW spaces, real estate for private city lots, and MTA for on road space enforcement	Seattle Department of Transportation

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Miscellaneous	Heating Elements allowed with Fire Marshal Approval; private property approval only with TUP (Currently Expired)	Specific smoking rules; shoes/shirt requirement for patrons; dog friendly rules are specific	Only requires a permit if subject to a building or fire permit; only 20 ROW Streateries are allowed in the BD zone; no more than 1 streatery permit per business	Can't place in travel lane, anti gridblock zone, no stop zone, not in vision clearance, bus area, ADA parking space, existing permitted area i.e.: farmers market w/o permission, EV charging space, w/in 15' of hydrant or storm grates or utility covers	Violations can include Non ADA, outside of permitted boundaries, no permit, in front of other house/business w/o permission, put in traffic lane, out of hours, noise, no security measures, out of season, enclosed space.	Not allowed in ADA space only for partial lot closure; fire permit required to close entire parking lot; not in residential zones; not limited to restaurants; cannot limit pedestrian free passage	Must have emergency plans for storms; low level illumination is recommended for visibility	None	It's not a private space; it's for a public use; if a private space is made, a public space must also be made; 7-day public notice is required	10-day public notice