

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.

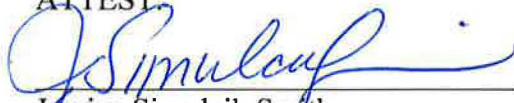
Section 7. Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper.

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.

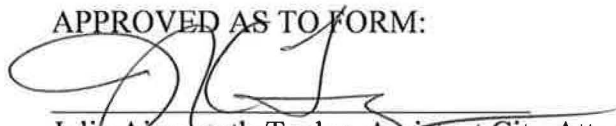
PASSED BY THE CITY COUNCIL ON JANUARY 11, 2021.


 Mayor Will Hall

ATTEST:


 Jessica Simulcik Smith
 City Clerk

APPROVED AS TO FORM:


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

Date of Publication: January 14, 2021

Effective Date: January 19, 2021

Date of Transmittal to Commerce: January 19, 2021