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City of Burien
Department of Community Development
Director's Interpretation #20-2
June 3, 2020

Subject: COVID-19 Business Support: Temporary Outdoor Dining on Private Property for Existing Restaurants

Interpretation: This interpretation provides guidance for existing, permitted restaurants seeking to establish temporary outdoor dining on private property under the Governor's Safe Start Phased Reopening Plan.

Discussion: During the Safe Start Reopening Plan, restaurants are permitted to operate with outdoor dining, with seating at a percentage of existing capacity. In some cases, restaurant operators have requested to use outdoor parking spaces to accommodate diners consistent with the Governor's Safe Start Reopening Plan.

The City will work with restaurant operators to accommodate operations during this time consistent through the following process:

Temporary Use Permit. BMC 19.75.010 "Uses Requiring Temporary Use Permits" says that temporary use permits shall be required for:

- 1) Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and frequency; or
- 2) Limited expansion of any use that is otherwise allowed in the zone but which exceed the intended scope of the original land use approval.

Most restaurants in commercial zones in the City fall under #2 above.

A temporary use permitted under BMC 19.75.030(2) and (4) is granted once per a calendar year for a total of 60 consecutive or non-successive days in a 180 day period.

Parking associated with the Temporary Use Permit. BMC 19.75.040 and 19.75.090 provide that parking and parking access for proposed temporary uses shall be approved by the City.

During COVID-19 Phases 1 and 2, it is expected that the applicant will demonstrate that adequate supply of off-street and on-street parking is available to the restaurant use during hours of operation, and that parking can be provided in a safe manner. In some cases, this may mean that the applicant will demonstrate adequate parking through sharing parking agreements or otherwise designate parking sufficient to ensure adequate supply consistent with the zone in which the restaurant is located. Additionally, disabled parking shall not be reduced, moved or limited.

In the Downtown zones, BMC 19.20.030.6 waives additional parking requirements for building additions, in light of a history over-supply of off-street parking in the downtown area. While this provision does not necessary apply to an expansion of outdoor seating uses, there is a policy basis for waiving parking for expanded uses.

Public Welfare. BMC 19.75.090 provides that the applicant shall demonstrate that:

- 1) The proposed temporary use will not materially detrimental to the public welfare; and
- 2) The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation

Adjacency to Residential Uses: When temporary outdoor dining uses are proposed adjacent-to or across public rights-of-way from residentially zoned lots, the applicant must demonstrate hours of operation, noise controls and operating procedures that are consistent with its proximity to residential uses.

Permit Review Process. Applicants should file a [Temporary Use Application](#) with the City of Burien. During Washington State Phased Re-opening phase 1 and 2:

- Permit applications are required 14 days in advance of the outdoor use, waiving the 30-day advance permit requirement.
- Permit application fee of \$367 will be waived.
- Burien staff will review the permit application, with review(s) from the following departments, if applicable: Building, Fire, Planning, Policy, Public Works, and Parks.

Note: It is the responsibility of the applicant to ensure that approvals from other agencies are obtained, including Washington State Liquor Control Board, King County Public Health and other agencies.

For reference, For information about the Governor's COVID-19 Reopening Plan, see the State of Washington, Governor Inslee's [website](#):