

SUMMARY and FISCAL NOTE*

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** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: Updates to SDOT Public Space and Business Activation Permitting

Summary and Background of the Legislation:

The Seattle Department of Transportation (SDOT) Public Space Management (PSM) group works with residents, organizations, and businesses to enhance neighborhoods, strengthen communities, enliven public spaces, and promote economic vitality. PSM's permits and programs are designed to be a resource for Seattle's resident and business communities to activate the public realm through outdoor events and business and community enhancements. SDOT PSM has undergone a Racial Equity Analysis for Seattle Municipal Code Title 15 toward reducing barriers and increasing access to our programs. Recommendations from this analysis have influenced the Safe Start pilot program and these subsequent proposed changes to Seattle Municipal Code and SDOT Director's Rules.

SDOT launched the Safe Start Pilot Program in June 2020 to support Seattle small businesses and communities during the COVID-19 pandemic. The program permits are free, SDOT PSM outreach efforts have increased accessibility and participation, and program requirements have evolved to further support businesses as pandemic conditions changed over time. The program includes streamlined options for:

- Outdoor cafés in the curbspace or on the sidewalk for restaurants, cafés and other food/drink establishments;
- Outdoor merchandise displays in the curbspace or on the sidewalk for small businesses to display wares and goods to build visibility;
- Vending permits for food and flower trucks/carts to be allowed in new locations; and
- Street closures for outdoor community events, including small markets, neighborhood gatherings and more.

This legislation amends, adds, and removes provisions to Seattle Municipal Code Title 15 regarding sidewalk cafés, merchandise displays, and vending. Additional revisions to insurance and indemnity sections and to compliance and enforcement sections of Title 15 aim to make future programs and permits more accessible to a wider range of users. This proposal also moves some provisions from Seattle Municipal Code Title 15 to SDOT Director's Rules, where SDOT will have more flexibility to evaluate and adjust programs moving forward.

Proposed changes to Seattle Municipal Code (SMC) and associated SDOT Director's Rules (DR's) include:

Sidewalk and Curbspace Cafés

- No substantive amendments are made to SMC Chapter 15.16, Cafes in the Public Place.
- Director's Rule 02-2019 Cafes in the Public Place will be repealed and replaced with a new version that includes some changes. These changes aim to ensure safety, mobility, and access in the public place while addressing inequities arising from variances in City infrastructure and in local business resources. These include but are not limited to:

- Add a seasonal café permit option for up to seven months between April 1st and October 31st. (We will continue to offer long-term, renewable permits.)
- Update design standards to better ensure long-term structural soundness in all-weather conditions.
- Remove the minimum slope requirement for sidewalk cafes to allow platforms in more cases.
- Set the maximum length of any outdoor dining in the curbspace to 40 feet. Longer spaces may be allowed based on additional SDOT review of curbspace functions on the block.
- Allow lighting and heating (electric and propane) elements in outdoor dining space only as allowed by SDCI and SFD permitting.
- Require individual businesses with private outdoor dining or displays to apply for stand-alone permits even when located within a permitted seasonal or full year street closure area.

Merchandise Displays

- A new Chapter 15.15 Merchandise Display in the Public Place is added to SMC and removed from SMC Chapter 15.17 Vending. This adds detail and clarity to display regulations.
- A new Director's Rule Merchandise Display in the Public Place is added to provide direction to retail establishments wishing to use the public place to display goods. This DR includes changes to former policy and process including, but not limited to:
 - Add a seasonal merchandise display permit option for up to seven months between April 1st and October 31st. (We will continue to offer long-term, all-year permits.)
 - Remove permit requirement for merchandise displays in the frontage zone that meet standards set forth in this Director's Rule.
 - Include diverters for cane detectability as a design standard for both permitted displays and displays allowed in frontage zone without a permit.

Vending

- SMC Chapter 15.17 Vending is re-organized to move content from Code to Director's Rule, to move merchandise display sections to new Chapter 15.15, and to align organizationally with Chapters 15.15 and 15.16 for greater readability.
- SMC Chapter 15.17 Vending is also amended to remove some restrictions which might limit the success of permitted vendors in the public place. Amendments include but are not limited to:
 - Remove restrictions that prohibit vending within 50 feet of a brick-and-mortar business selling food or flowers.
 - Remove limit of two vendors per block face. (SDOT will continue to review for adequate curbspace loading and other site-specific factors before issuing permits.)
 - Remove restriction to allow for vending other goods in addition to food and flowers.
 - Remove restrictions that prohibit vending in a public place abutting lots in specific (Single Family/Neighborhood Residential) zones
 - Remove restrictions that prohibit vending within 1,000 feet of a high school. (SDOT may limit vending based on site context and feedback from nearby schools.)
- A new Director's Rule Vending in the Public Place is added which supersedes SDOT DR 3-2011 and SDOT DR 6-2012. This contains content detail removed from SMC Chapter 15.17 in a format that aligns with the café and merchandise display rules, and expressly allows the following changes to the vending program:
 - Allow vending permits to be issued to non-vendor applicants (in addition to vendor applicants), including an adjacent tenant, adjacent business, adjacent property owner, or

- a public entity. SDOT will appropriately review and condition vending permits for non-vendor applicants.
- Specify that vending of other goods beyond food and flowers will be allowed under permitted street closures.
 - Create new 4-month vending permit for food/flower vendors to try out new sites.

Compliance and Enforcement:

- SMC Sections 15.04.010 and 15.91.002 are amended to allow some uses of right-of-way without a permit if user adheres to standards in applicable SDOT Director’s Rules.

Permittee Insurance and Indemnity Requirements:

- SMC Section 15.04.045 is amended to allow exceptions to insurance requirements when permitting specified minor uses of right-of-way by Director’s Rule.
- SMC section 15.04.060 is amended to allow variations and exceptions to indemnity agreement requirements by Director’s Rule.

This legislation also extends the free Safe Start permits for outdoor dining, merchandise display, and street closures to June 30, 2023, from the current expiration date of January 31, 2023. This extension will allow more time for existing Safe Start permittees to evaluate their needs and apply for a new permit while also giving SDOT the time it needs to review the new applications and issue permits before the Safe Start permits expire. The vending permit Safe Start expiration date will remain January 31, 2023.

We charged no fees for temporary permits issued under the Safe Start program. We also waived fees for the duration of the Safe Start program on permits for outdoor café, merchandise display, and vending permits previously issued under our permanent program. This fee waiver and the temporary free permit options will both end when the Safe Start program expires. This legislative package includes an updated Street Use Fee Schedule with changes applicable to most of the permits highlighted above. For sidewalk and curbspace cafes and merchandise display, the new Fee Schedule eliminates occupation fees and focuses on Street Use cost recovery in the issuance and renewal fees. The Fee Schedule also establishes fees for new vending permit types and makes possible a lower cost permitting option for community events.

Changes to the fee schedule are identified in Attachment A to this ordinance, and are incorporated into a new fee schedule, Attachment B.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes x No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes X No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Appropriation change (\$):	General Fund \$		Other \$	
	2022	2023	2022	2023
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2022	2023	2022	2023
		-100,000		-110,000
Positions affected:	No. of Positions		Total FTE Change	
	2022	2023	2022	2023
	0	0	0	0

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

If so, describe the nature of the impacts. This could include increased operating and maintenance costs, for example.

Depending on the location and type of permit, parking meter revenues may be reduced. The current permitting volume has reduced parking revenue by an estimated \$100,000 in the General Fund.

The new Street Use Fee Schedule eliminates occupation fees for outdoor dining and merchandise displays, which generated approximately \$110,000 in revenue in 2019 in the Transportation Fund. Occupation fees included a per-square-foot fee as well as a fee based on lost parking revenue that was charged to curb space cafes. These occupation fees were intended to encourage efficient use of the public right-of-way and discourage any private use that does not provide public benefits. Business activation uses like cafes help to provide a lively and vibrant streetscape and align with our city climate goals by transforming vehicle parking spaces into gathering places.

While eliminating occupation fees, we are proposing to increase permit issuance and renewal fees for many uses, including outdoor dining and merchandise displays. The higher issuance and renewal fees fully recover SDOT costs for most permit types, reducing the reliance on use and occupation fees to subsidize the review and renewal process. The permit types that do not achieve cost recovery include seasonal outdoor dining, seasonal merchandise display, temporary vending, and public street and sidewalk activities. These subsidies total an estimated annual subsidy of \$78,000.

Are there financial costs or other impacts of *not* implementing the legislation?

Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs or consequences.

By not implementing this legislation and new fee schedule, the Safe Start Permits would expire on January 31, 2023 and SDOT would re-implement fees for the above-permitted uses of the right-of-way. Without this legislation and fee schedule update, many of the restaurants, businesses, and community groups that have activated the right-of-way would likely remove their permitted uses and Seattle could see lower outdoor dining and other public activation use of the right-of-way.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

_____ This legislation adds, changes, or deletes appropriations.

If this box is checked, please complete this section. If this box is not checked, please proceed to Revenues/Reimbursements.

Fund Name and Number	Dept	Budget Control Level Name/#*	2022 Appropriation Change	2023 Estimated Appropriation Change
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not completely supported by revenue/reimbursements listed below, please identify the funding source (e.g., available fund balance) to cover this appropriation in the notes section. Also indicate if the legislation changes appropriations one-time, ongoing, or both.

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g., three-year funding agreement but not permanent ongoing.

Appropriations Notes:

3.b. Revenues/Reimbursements

_____ This legislation adds, changes, or deletes revenues or reimbursements.

If this box is checked, please complete this section. If this box is not checked, please proceed to Positions.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2022 Revenue	2023 Estimated Revenue
Transportation Fund - 13000	SDOT	Permit Issuance and Renewal for Outdoor Dining, Merchandise Display, Vending, and Street and Sidewalk Activities	0	\$600,000
TOTAL				\$600,000

This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below. Do the revenue sources have match requirements? If so, what are they?

Is this change one-time or ongoing?

Please explain any complicated scenarios – e.g., three-year funding agreement but not permanent ongoing.

This change is ongoing. Revenue is related to the number of permits issued. Future revenue may be less than the 2023 estimate as the 2023 estimate includes a higher number of new permits being issued than may be expected in future years. This is because both the existing

temporary Safe Start permits will need to be issued as new permits and the new program may attract more permit applications than subsequent years.

Revenue/Reimbursement Notes:

3.c. Positions

This legislation adds, changes, or deletes positions.
 If this box is checked, please complete this section. If this box is not checked, please proceed to Other Implications.

Total Regular Positions Created, Modified, or Abrogated through This Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2022 Positions	2022 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* List each position separately.

This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below.

Position Notes:

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

If so, please list the affected department(s) and the nature of the impact (financial, operational, etc.).

This legislation helps work towards the goals of numerous other departments. By helping restaurants and other small businesses expand their outdoor activities, this legislation helps meet the Office of Economic Development’s goals of supporting small and micro-business and partnering with neighborhood business districts to deliver vibrant neighborhoods and community ownership.

This legislation helps make it easier for restaurants to have cafes dining in the curbspace, as well as businesses and community groups to close all or part of a street. These actions convert space largely set aside for motor vehicle use and storage to space for people and help meet the climate and environmental goals of the City of Seattle and many of its departments, including the Office of Sustainability and Environment.

SDOT has worked closely with other city departments in crafting these recommendations, including SDCI, OED, and SFD.

b. Is a public hearing required for this legislation?

If yes, what public hearings have been held to date, and/or what public hearings are planned/required in the future?

No. However, SDOT has run an extensive multi-phased outreach program over the past 24 months, including a survey with over 10,000 responses.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.

Public notice for the State Environmental Policy Act and Director's Rules was completed prior to Council action.

d. Does this legislation affect a piece of property?

If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

This legislation affects the public right-of-way across the city, which abuts property citywide.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

If yes, please explain how this legislation may impact vulnerable or historically disadvantaged communities. Using the racial equity toolkit is one way to help determine the legislation's impact on certain communities. If any aspect of the legislation involves communication or outreach to the public, please describe the plan for communicating with non-English speakers.

The proposal is centered on strategies meant to lower barriers for small businesses and community groups to operate successfully outdoors in the right-of-way, including BIPOC and immigrant-owned small businesses. While this package is focused on higher-level Seattle Municipal Code and Director's Rule changes, successful implementation will require new strategies still in development, including new promotional and educational materials, options for incremental fee payments, and strategies to encourage more community driven activations of public space to support local neighborhood planning efforts. The project team is performing a Racial Equity Toolkit (RET) analysis to develop a cohesive plan for outreach, new programmatic pilots, and internal practices.

Prior SDOT communication via the SDOT blog have been translated into Seattle's tier 1 languages, and SDOT will continue to follow that model. Translation services are available to all permit applicants who require language assistance in the permit application process.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

Please provide a qualitative response, considering net impacts. Are there potential carbon emissions impacts of not implementing the proposed legislation? Discuss any potential intersections of carbon emissions impacts and race and social justice impacts, if not previously described in Section 4.e.

This legislation is likely to decrease carbon emissions across Seattle by making Seattle's right-of-way more people-centered and removing curbspace car parking spaces for outdoor business and community activation purposes.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

Describe the potential climate resiliency impacts of implementing or not implementing the proposed legislation. Discuss any potential intersections of climate resiliency and race and social justice impacts, if not previously described in Section 4e.

The actions proposed in this legislation will increase Seattle’s resiliency to climate change in a material way. By making it easier for Seattlites to use their streets and sidewalks in more people-centric ways, the City is better able to remain a vibrant, healthy space as Seattle’s residents and visitors make the necessary shift away from single-occupancy vehicle travel as a primary mode of transportation.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?

This answer should highlight measurable outputs and outcomes.

N/A – this is a modification of existing programs based on lessons learned during our pandemic permitting program.

Summary Attachments: