

SUMMARY and FISCAL NOTE*

| Department: | Dept. Contact/Phone: | CBO Contact/Phone: |
|--------------------|-----------------------------|---------------------------|
| Transportation | Alyse Nelson 206-423-6330 | Christie Parker |

** 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:

AN ORDINANCE related to street and sidewalk use; to make permanent programmatic elements of the Temporary Business Recovery Permit program that authorized vending, merchandise display, outdoor cafes, and street closures in the city during the COVID-19 pandemic; adding new Chapter 15.15 and new Sections 11.14.711, 11.14.712, 11.14.713, 11.72.452, 15.17.040, and 15.17.051 to the Seattle Municipal Code; renumbering existing Section 11.14.712 of the Seattle Municipal Code as Section 11.14.714; amending Sections 11.14.228, 11.16.280.G, 11.23.160.F, 11.23.420, 11.23.440, 11.31.121, 11.72.195, 15.02.044, 15.02.046, 15.04.010, 15.04.035, 15.04.045, 15.04.060, 15.04.070, 15.04.074, 15.04.090, 15.16.040, 15.16.051, 15.16.080, 15.17.005, 15.17.006, 15.17.152, 15.17.200, 15.32.250.F, and 15.91.002 of the Seattle Municipal Code; and repealing Sections 15.17.007, 15.17.008, 15.17.009, 15.17.050, 15.17.080, 15.17.100, 15.17.120, 15.17.130, 15.17.150, and 15.17.250 of the Seattle Municipal Code; and amending the Street Use Fee Schedule.

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 3-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 April 1, 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.

2. CAPITAL IMPROVEMENT PROGRAM

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

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

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?

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 cafés 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 new permit issuance and renewal fees will be much closer to cost recovery than the previous rate, meaning we will reduce reliance on the use of occupation fees to cover costs now more fully-recovered during the review and renewal process.

SDOT estimates a need for an additional temporary position in 2023 and 2024 with an annual additional cost increase of \$78,000. This cost will likely be partially or entirely offset by permit fee revenues, which are estimated at \$625,000 annually.

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

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.

4. OTHER IMPLICATIONS

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

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?

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?

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?

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?

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?

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.

The actions proposed in this legislation will increase Seattle’s resiliency to climate change in a material way. By making it easier for Seattleites 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)?

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

Summary Attachments: