

CODE

**CITY OF REDMOND
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, RESPONDING TO THE COVID-19 OUTBREAK; ADOPTING AN INTERIM LAND USE REGULATION TEMPORARILY AMENDING PROVISIONS OF REDMOND ZONING CODE CHAPTER 21.46 RELATING TO THE AUTHORIZATION OF TEMPORARY USES; ADOPTING FINDINGS; SETTING THE DATE FOR A PUBLIC HEARING ON THE INTERIM REGULATIONS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN IMMEDIATE EFFECTIVE DATE

WHEREAS, RZC 21.46 authorizes and regulates certain temporary uses; and

WHEREAS, temporary use provisions are intended to permit temporary uses that are safe and compatible with the general vicinity and adjacent uses; and

WHEREAS, the temporary use provisions prohibit the extension of the permit term beyond six months; and

WHEREAS, the COVID-19 outbreak has led Governor Inslee, King County Executive Constantine, President Trump, and Mayor Birney to declare a state of emergency and to prescribe restrictive measures on personal interaction in order to slow the spread of the virus; and

WHEREAS, the restrictions imposed by Governor Inslee's "Stay Home Stay Healthy" Proclamation 20-25 have had a devastating impact on small businesses and the regional economy; and

WHEREAS, the Stay Home Stay Healthy order ended on May 31st and moved to Safe Start - Washington's Phased Reopening which provides for a careful approach to emerging from the pandemic by allowing more businesses and activities to re-open in phases with adequate social distancing measures and health standards in place to minimize the health impacts of COVID-19; and

WHEREAS, Phased Reopening began in King County on June 5, 2020, after the Washington State Department of Health accepted King County's plan to allow for limited openings of recreational, social and business activities in a modified Phase 1 of the Governor Jay Inslee's Safe Start plan; and

WHEREAS, under Washington state guidance, restaurants, personal service providers and retail operations are now allowed to begin on-site service with reduced occupancy limits: for outdoor dining activities at 50 percent outdoor capacity with all tables and chairs maintaining 6 feet of distance; for indoor dining services at 25 percent of the tables provided such tables and chairs are more than 6 feet away from each other; for retail activities at no time may an establishment's occupancy be higher than 15 percent and indoor services are limited to 30 minutes; and for personal service activities at no time may an establishment's occupancy be higher than 25 percent and indoor services are limited to 30 minutes; and

WHEREAS, if small businesses cannot reopen with enough outdoor space to offset the occupancy lost to limits on the use of indoor spaces, some businesses may not be able to reopen or may be forced to close permanently; and

WHEREAS, Planning and Community Development staff have conducted outreach and determined that use of private parking lot, sidewalk and right-of-way space has been identified as a primary need for businesses to reopen consistent with phased reopening requirements; and

WHEREAS, there are mounting concerns that any delays in making the outdoor spaces available will be a barrier to businesses reopening and staying solvent; and

WHEREAS, a clear permitting path and reduced fee for Temporary Use Permits has been identified as necessary to support Redmond's struggling small businesses; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorize the City to adopt interim regulations as long as a public hearing on the interim regulations is held within sixty days of adoption and as long as such regulations are effective for no more than six months unless further extended; and

WHEREAS, the Redmond City Council has considered the recommendations of the Mayor and the Planning and Community Development Director and has determined to enact interim

regulations for the reasons set forth in Section 1 of this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby adopted as the Redmond City Council's findings justifying the actions taken in this ordinance. The Redmond City Council reserves the right to adopt additional findings in support of its actions after the public hearing required by Section 4 below is completed.

Section 2. Amendments to the Temporary Use Provisions of RZC Chapter 21.46. During the period in which this ordinance is in effect, the provisions of RZC Section 21.46.020 shall be amended to read as follows:

21.46.020 Scope

- A. A short-term temporary use permit shall be required for any temporary use of no more than six months in duration. The six months need not run consecutively, except in the case of encampment temporary uses. The six months may occur at any time within a calendar year as long as each day of operation is designated and approved. A day of operation shall mean any or part of any day in which the business is conducted. Applications for a short-term temporary use permit (six months or less) shall follow the procedures for a Type I

review pursuant to RZC 21.76.050.F or as modified herein. Short-term temporary use permits shall not be renewed, and any temporary use that will extend beyond six months shall be conducted only after approval of a long-term temporary use permit, unless otherwise authorized by the specific provisions of this RZC Chapter 21.46 Temporary Uses.

1. Temporary uses that occur seasonally on an annual basis may be processed over the counter upon their subsequent year's renewal provided the first year's business was processed under a Type I review and the proposal is substantially the same as the previous year.
- B. An encampment temporary use permit shall be valid for a five-year period based on the following criteria:
1. Once approved, the encampment may occur at the host site for a maximum of three visits within a five-year period if the site plan and conditions that were originally approved remain unchanged;
 2. The encampment shall comply with the provisions outlined in this chapter;
 3. All conditions of approval were fulfilled during the previous stay;
 4. A temporary encampment stay shall be limited to a maximum of 125 calendar days within any 365-calendar-day time period at one location; and

5. There shall be a minimum of 365 calendar days between the end of the 125-calendar-day stay and the next approved encampment.

C. A long-term temporary use permit shall be required for any temporary use longer than six months in duration. A long-term temporary use permit shall be valid for a maximum of two years from the date the permit is issued or the end of the permit activity, whichever comes first. Applications for a long-term temporary use permit (longer than six months) shall follow the procedures for a Type V review pursuant to RZC 21.76.050.J.

D. A long-term temporary use permit may be renewed, provided that:

1. The permit renewal must be applied for in advance of the expiration of the original term;
2. The permit renewal shall follow the procedures for a Type V review pursuant to RZC 21.76.050.J;
3. The applicant shall pay a renewal fee equal to that prescribed by Council resolution for a new long-term temporary use permit; and
4. The application for renewal meets the decision criteria outlined in RZC 21.46.030.A;
5. The renewal may be conditioned upon the construction or installation of such improvements that are necessary to

serve the temporary use and to mitigate impacts of the temporary use, taking into account the duration of the use.

6. A long-term temporary use permit may be renewed for one or more additional two-year renewal terms if the conditions of this subsection are met at the time of such renewal.

E. Upon expiration of the initial term of a short- or long-term temporary use permit or upon the expiration of any renewal term of a long-term temporary use permit, either:

1. The temporary use shall immediately cease, and the property on which the use was located shall be restored as nearly as practicable to the state it was in prior to commencement of the temporary use; or

2. If the applicant has applied for and received all permits necessary to make such temporary use permanent, the temporary use may continue until any necessary construction under such permits is completed and the use meets all requirements for a permanent use of the property as long as the applicant diligently pursues completion of the improvements and compliance with the requirements.

F. The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitations noted herein and as noted in RZC 21.46.030, *Decision Criteria*, and as may be established by the Administrator:

1. Outdoor art and craft shows and exhibits;
2. Retail sales such as Christmas trees, seasonal retail sale of agricultural or horticultural products, firewood, seafood, etc.;
3. Mobile services such as veterinary services for purposes of giving shots, unless exempted under subsection F.11 below;
4. Vending cart. No mechanical, audio or noise-making devices, nor loud shouting or yelling will be permitted to attract attention;
5. Group retail sales, such as swap meets, flea markets, parking lot sales, Saturday Market, auctions, etc.;
6. Temporary encampments that comply with the conditions outlined in this chapter;
7. Temporary parking lots used during construction or site development;
8. Use of private parking areas for seating that is accessory to an adjacent use when the indoor occupancy of the adjacent use is reduced as a result of damage that is being actively repaired, health department order or emergency declaration. The Code Administrator shall be authorized to extend the term of the temporary use for the duration of the indoor occupancy reduction, and to extend the term for no more than 12 additional months as needed to re-

establish indoor occupancy following the completion of repairs or recovery from the emergency.

9. ~~8.~~ The Administrator may authorize additional temporary uses not listed in this subsection, when it is found that the proposed uses are in compliance with the provisions pursuant to this chapter.

G. **Exemptions.** The following activities and structures are exempt from requirements to obtain temporary use approval:

1. Portable units or modular structures when used to provide temporary classrooms at schools, provided that adequate sewer and water service is available.
2. Manufactured homes, portable units, modular structures, travel trailers when used as a dwelling while a residential building on the same lot is being constructed or when a damaged residential building is being repaired, when adequate sewer and water is available.
3. Manufactured homes when used for housing elderly or disabled relatives of the occupant of an existing residence, when such relatives require constant supervision and care, and when adequate sewer and water is available.
4. Manufactured homes, portable units, modular structures, or travel trailers when used to support construction or site development.

5. Guests of Redmond residents in recreational vehicles when in compliance with RZC 21.40.010.G, *Parking and Storage of Recreational, Utility, and Commercial Vehicles and Vessels in Residential Neighborhoods*.
6. Recycling and collection centers that meet all of the following requirements:
 - a. Containers and structures shall be located on private property and not on public rights-of-way. The property owner's approval must be obtained, and the Planning Department notified that the structure will be located at that site;
 - b. Structures shall not interfere with traffic circulation or visibility at intersections;
 - c. The owner's name and telephone number shall be clearly posted on the structure or container; and
 - d. If located in a parking area, the structures or containers shall take up no more than three parking stalls. One collection structure and associated staff booth are allowed in parking lots of 200 stalls or less and one additional container and staff booth for every additional 200 stalls;
7. Model homes or apartments and related real estate sales and display activities located within the subdivision or residential development to which they pertain;

8. Garage sales, moving sales, and similar activities for the sale of personal belongings when operated not more than three days in the same week and not more than twice in the same calendar year. Allowed in all residential zoning districts;
9. Fund-raising car washes that meet the requirements for discharge of wastewater established by the City of Redmond Natural Resources Division;
10. Motorized catering that remains at one location for no more than three hours per day;
11. Mobile services that:
 - a. Are located outside the public right-of-way and not located on on-street parking;
 - b. Are located at a site for no more than 14 total days over a period of three months;
 - c. Are not located in required drive aisles or any area that would impede emergency or ADA access; and
 - d. Are located on a lot with no more than one other mobile service vehicle at any given time.
12. Circuses, carnivals, fairs, or similar transient amusement or recreational activities. Such uses are subject to RMC Chapter 5.28, *Shows, Carnivals and Circuses*;
13. Activities, vendors and booths associated with City of Redmond-sponsored or authorized special events;

14. Individual booths in an approved temporary use site for group retail identified under subsection E.5 of this section;

15. Weekend (Saturday and Sunday) only, warehouse sales in Business Park, Manufacturing Park, and Industry zones, when held no more than once a month in an existing facility-;

16. Use of the sidewalk and right-of-way for seating that is accessory to an adjacent use when in compliance with RZC 21.46.030.A and B. Such uses are subject to RMC Chapter 12.08.

Section 3. Interim Nature of Regulations - Limit of Applicability. Pursuant to RCW 36.70A.390 and RCW 35A.63.220, the regulations adopted in Sections 2 of this ordinance are interim land use regulations. The regulations shall be in effect for a period of six months from the date this ordinance is effective and shall thereafter expire unless the same are extended as provided by law or unless more permanent regulations are adopted.

Section 4. Public Hearing. The Redmond City Council shall hold a public hearing on the interim regulations adopted by Sections 2 above on July 21, 2020 at 7:30 p.m. or as soon thereafter as the matter may be heard, in the City Council Chambers at Redmond City Hall, 15670 NE 85th Street, Redmond, Washington, provided, that in the event an in-person meeting is prohibited by proclamation of the Governor, the Mayor, or other appropriate legal

authority, the hearing may be held virtually using the then-current protocols for conducting remote Redmond City Council meetings and hearings. Notice of the hearing shall be published in the City's official newspaper in the manner provided for Type VI hearings under the Redmond Zoning Code.

Section 5. Transmittal to Department of Commerce.

Pursuant to RCW 36.70A.106, a copy of this ordinance shall be transmitted to the Washington State Department of Commerce as provided by law.

Section 6. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance, the interim regulations, or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, the interim regulations, or its application to any other person or situation.

Section 7. Declaration of Emergency - Immediate Effective

Date. For the reasons set forth in this ordinance and in the emergency proclamations of Governor Inslee, King County Executive Constantine, Mayor Birney, and President Trump, the Redmond City Council finds and declares that a public emergency exists due to the outbreak of COVID-19 that makes this ordinance necessary for

the immediate protection of the public health, public safety, public property, and public peace. This ordinance, having been declared an emergency and having received the affirmative votes of at least a majority plus one of the whole membership of the Redmond City Council, is not subject to referendum and shall become effective immediately upon adoption. The City Clerk shall publish this ordinance or a summary thereof in the ordinary course of business.

ADOPTED by the Redmond City Council this ____ day of _____, 2020.

APPROVED:

MAYOR ANGELA BIRNEY

ATTEST:

CHERYL D. XANTHOS, CITY CLERK

APPROVED AS TO FORM:

JAMES E. HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.