



Legislation Text

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**File #:** AM No. 20-083, **Version:** 1

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**MEMO TO:** Members of the City Council

**FROM:** Mayor Angela Birney

**SUBJECT:**

Adoption of an Ordinance Imposing an Interim Official Control and a Resolution Setting a Reduced Fee for Temporary Use Permits Associated with Allowing Parking Lot, Sidewalk and Right-of-Way Use by Businesses to Meet Occupancy Limits of the Safe Start Plan Required to Reopen Washington’s Economy and Emerge From the COVID-19 Pandemic

1. ORDINANCE NO. 3003: An Ordinance 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
  
2. RESOLUTION NO. 1532: A Resolution Amending the Planning and Community Development Department Fee Schedule in Order to Provide a Fee For Permits Associated with the Temporary Use of Private Parking Lots for Patron Seating During the Safe Start Reopening of Washington’s Economy

**I. RECOMMENDED ACTION**

Adopt the attached Ordinance imposing an Interim Official Control to allow City permits to be issued for parking lot, sidewalk and right-of-way use by businesses to meet occupancy limits of the Safe Start Washington Phased Reopening for a period of six months pursuant to authority granted in RCW 36.70A.390 and RCW 35A.63.220. Because this is an Interim Official Control, a public hearing will be required within 60 days of the enactment of the Ordinance in order to remain in effect. Adopt the attached Resolution setting a reduced fee for Temporary Use Permits issued to allow business use of private parking lots to meet occupancy limits of the Safe Start plan.

**II. DEPARTMENT CONTACTS**

Carol Helland, Director	425-556-2107
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*Planning and Community Development*

### III. DESCRIPTION/BACKGROUND

Council is being asked to take two actions tonight.

1. Create a clear permitting path to allow businesses to use private parking lots, and City sidewalk and rights-of-way for patron seating (Refer to Attachment A - Interim Official Control Ordinance); and
2. Create a reduced permitting fee for review of applications for businesses to use private parking areas for patron seating (refer to Attachment B - Fee Adoption Resolution).

#### A. Analysis

On March 18, 2020, an extended closure of City Hall was announced in response to the COVID-19 outbreak. Governor Inslee, King County Executive Constantine, President Trump, and Mayor Birney all declared a state of emergency and prescribed restrictive measures on personal interaction in order to slow the spread of the virus.

For over two months, all but essential services have been curtailed as a result of the restrictions imposed by Governor Inslee's "Stay Home Stay Healthy" Proclamation 20-25 that was adopted on March 23, 2020, to slow the spread of COVID-19 and prevent an uncontrolled surge in hospitalizations. The effects of measures taken to address the public health emergency of this pandemic have been economically devastating to small business owners. Some businesses have been able to partially pivot their operations to no-contact delivery of goods and services (such as curbside take-out), but others have been forced to close entirely.

The Stay Home Stay Healthy order ended on May 31, 2020, and moved to Safe Start - Washington's Phased Reopening. The state's "Safe Start" plan is a phased approach to re-opening Washington's economy. Safe Start sets a careful approach to emerging from the pandemic. It allows for modifications to business closures and requires physical distancing measures to minimize the health impacts of COVID-19. Through the Safe Start plan, more businesses and activities may re-open in phases with adequate social distancing measures and health standards in place. The City is taking a range of actions to support businesses as they move through the Safe Start phases. These efforts include:

- Suspension of parking enforcement;
- Designation of curbside pick areas;
- Support for businesses to pivot operations through loan packaging and business plan updating advising;
- Development of the "What's Open Eastside" mapping tool; and
- Development of a grant program to distribute CARES Act funding to support small business re-opening needs such as the acquisition of required personal protective equipment for employees.

On Friday, June 5, 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 Governor Jay

Inslee's Safe Start plan. Activities may not begin until businesses are able to meet the state's public health guidance. A summary of the Safe Start King County modified Phase 1 Plan is available at the following link: <https://kingcounty.gov/depts/health/covid-19/safe-start.aspx>. A full summary of the Safe Start 4-Phase Reopening Plan is available at the following link: [https://www.governor.wa.gov/sites/default/files/SafeStartWA\\_4May20\\_1pm.pdf](https://www.governor.wa.gov/sites/default/files/SafeStartWA_4May20_1pm.pdf)

Under Washington state guidance, restaurants, personal service providers, and retail operations are allowed to begin on-site service with the below-described restrictions. All outdoor dining activities may operate subject to Phase 2 guidance at 50 percent outdoor capacity with all tables and chairs maintaining 6 feet of distance. Additional or new outdoor seating would be allowed subject to maintaining 6 feet of distance between tables and chairs, as well as receiving city permits that are typically needed. All indoor dining services may operate subject to Phase 2 guidance with the exception that at no time may the number of customers be more than 25 percent of the tables, provided such tables and chairs are more than 6 feet away from each other. All non-essential retail activities may operate subject to Phase 2 guidance with the exception that at no time may an establishment's occupancy be higher than 15 percent and indoor services are limited to 30 minutes. Personal service activities may operate subject to Phase 2 guidance with the exception that at no time may an establishment's occupancy be higher than 25 percent and indoor services are limited to 30 minutes.

To support business re-openings consistent with Safe Start limits and requirements, the Long-Term Recovery (LTR) Planning Team undertook an analysis of outdoor spaces that could be used to accommodate patron seating for dining and waiting areas. The recommendation of the LTR Planning Team was presented to the City Council on June 9 at the Planning and Public Works Committee of the Whole (COTW) meeting and included the following elements:

1. Creation of a clear permitting path to allow private parking lots, and City sidewalks and rights-of-way, to be used for patron seating; and
2. Creation of a reduced permitting fee to allow businesses to use private parking areas for patron seating and dining.

The permitting path is required to ensure that seating areas comply with code provisions such as American's with Disability Act (ADA) access requirements and Liquor and Cannabis Board (LCB) requirements for serving alcohol, and that use of right-of-way appropriately protects patrons from vehicles that share the travel space. This new permitting path requires amendments to the City's Temporary Use Chapter of the Redmond Zoning Code (RZC). Staff are recommending adoption of the attached Interim Official Control so that these code changes can go into effect immediately to expand business operating space and occupancy options. Refer to Attachment A - Interim Official Control Ordinance.

The permitting fee is required to cover the direct costs of permit review by Development Services. The fee recommended at the COTW meeting was set at \$1,000. At that meeting, Council expressed concern that the fee would create a barrier to use of the outside occupancy solution for some businesses. In response to that concern, staff has reduced the recommended fee to \$198.89 for the Temporary Use Permit (TUP) approval needed to allow private parking lot areas to be used for patron seating.

Currently, the lowest fee TUP is \$6,701.67. The recommended \$198.89 fee represents a substantial reduction that is intended to cover only the direct cost of staff time and associated materials to review a simplified permit that is tailored to the current unique business needs for expanded outdoor seating in private parking areas. The fee does not represent full cost recovery for issuance of a TUP. The right-of-

way use fee of \$511 would apply if a business is also requesting use of the sidewalk and/or right-of-way. This fee is already included in the adopted fee schedule and covers only the direct cost of staff time and associated materials to review the permit. If a business seeks to temporarily repurpose private parking and also use the sidewalk and/or right-of-way, staff will complete a consolidated review and a single fee of \$511 would be charged. Staff are continuing to seek grant opportunities that would cover the reduced permitting fee for small businesses wishing to pursue these outside seating options. Refer to Attachment B - Fee Adoption Resolution.

It is the recommendation of staff that Council adopt the attached ordinance imposing an Interim Official Control that supports an emergent business need to increase occupancy limits necessary to comply with the Safe Start Washington Phased Reopening for a period of six months. Because this is an Interim Official Control, a public hearing will be required within 60 days of the enactment of the ordinance in order to remain in effect. It is the concurrent recommendation of staff that Council adopt the attached resolution to add a reduced TUP fee for review of applications for business use of private parking areas to offset indoor occupancy reductions required by the Safe Start plan.

## **B. Outreach**

Staff have been conducting continuous direct and indirect (through OneRedmond, (re)StartUp425 and the Human Services Commission) outreach with the business community. The use of sidewalk and right-of-way space has been identified as a primary need for businesses to reopen consistent with Safe Start plan requirements. There is mounting concern that delays in making outdoor space available will be a barrier to businesses reopening. The staff recommendation for a clear permitting path and reduced TUP permitting fee is viewed as necessary to support Redmond's struggling small business owners.

## **C. Next Steps**

The attached recommended ordinance has been drafted to allow private parking lot, and sidewalk and right-of-way use by businesses to meet occupancy limitations of the Safe Start Washington Phased Reopening plan. If the City Council chooses to move forward with the Interim Official Control, a public hearing must be held before the City Council in the next 60 days for the ordinance to remain in effect.

An Interim Official Control puts temporary regulations in place in response to an emergent situation like this one. Notice and a public hearing are not necessary prior to enactment of an Interim Official Control, so the regulations can be put in place quickly. However, a public hearing must be held within 60 days of its adoption.

The Growth Management Act, RCW 36.70A.390, states that this Interim Official Control may be effective for six (6) months. If necessary, the Interim Official Control may be renewed for one or more additional six (6) month periods if a subsequent public hearing is held and findings of fact are made prior to each successive renewal. Permanent amendments to the Redmond Zoning Code Temporary Use requirements are planned as part of the City's code update work program scheduled to be completed by Q2 of 2021.

The attached recommended resolution has been drafted to provide for a reduce TUP review fee that covers only the direct costs of reviewing a simplified permit package to allow patron seating in private parking areas when needed to offset indoor occupancy reductions. If the City Council chooses to move

forward this the resolution, the new fee would go into effect immediately upon Council approval.

#### **IV. PREVIOUS DISCUSSIONS HELD**

June 9,2020 - Planning and Public Works Committee of the Whole

#### **V. IMPACT**

##### **A. Service/Delivery:**

Adoption of the recommended ordinance to enact an Interim Official Control and recommended resolution to create a reduced TUP review fee would support business needs for outdoor patron seating needed to meet King County’s modified Safe Start reopening requirements.

##### **B. Fiscal Note:**

The application of this Interim Official Control would be administered by Planning and Community Development staff during the review of permit applications. Indirect review costs associated with permit review will be absorbed by the City. Direct costs would be covered by the proposed new TUP review fee and the existing right-of-way us fee for café seating. Staff is continuing to look for grant opportunities available to small businesses to cover the cost of permit review.

#### **VI. ALTERNATIVES TO STAFF RECOMMENDATION**

Do not adopt the recommended ordinance to enact an Interim Official Control and continue to administer the café seating permits consistent with existing TUP and right-of-way permit requirements and existing permit fees.

#### **VII. TIME CONSTRAINTS**

The King County Phase 1 Modified Reopening went into effect on June 5, 2020. All businesses are affected by the occupancy limits imposed by the reopening plan, and the recommended Interim Official Control ordinance and fee resolution are intended to support business needs to accommodate outdoor occupancy options allowed by the reopening plan. The sooner the ordinance and resolution can be put in place, the sooner one barrier will be removed to businesses reopening and the associated economic recovery.

#### **VIII. LIST OF ATTACHMENTS**

- A. Recommended Interim Official Control Ordinance
- B. Recommended Temporary Use Permit Fee Resolution