

**CITY OF MONROE**  
**ORDINANCE NO. 025/2020**

AN INTERIM ORDINANCE OF THE CITY OF MONROE, WASHINGTON, IN RESPONSE TO THE COVID-19 PANDEMIC, TEMPORARILY AUTHORIZING FITNESS CENTERS, GYMS AND FOOD AND BEVERAGE ESTABLISHMENTS TO USE PRIVATE PARKING AREAS FOR GROUP FITNESS AND OUTDOOR DINING PURPOSES; REPEALING ORDINANCE NO. 009/2020; ESTABLISHING AN EXPIRATION DATE CONSISTENT WITH RCW 36.70A.390 AND RCW 35A.63.220; DECLARING A PUBLIC EMERGENCY; AND FIXING AN IMMEDIATE EFFECTIVE DATE.

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WHEREAS, a state of emergency has been declared by the federal, state, county, and municipal governments in response to the COVID-19 pandemic; and

WHEREAS, since February 29, 2020, Governor Jay Inslee has issued several proclamations, including Emergency Proclamation 20-25 (“Stay Home, Stay Healthy order”), placing numerous restrictions on individuals and businesses in response to the state-wide threat of the spread of the COVID-19 virus; and

WHEREAS, Governor Inslee has developed a phased reopening approach, known as the “Safe Start Washington” phased reopening plan, for resuming recreational, social, and business activities; and

WHEREAS, outdoor activities, including outdoor restaurant seating, have been determined to be safer and less likely to lead to the spread of COVID-19 than indoor restaurant seating; and

WHEREAS, during a modified Phase 1 of the “Safe Start” reopening plan, restaurants are authorized to resume outdoor on-premise food and beverage service at 50 percent of existing outdoor capacity, so long as those businesses adopt social distancing measures consistent with the phase-specific re-opening plan requirements but indoor dining is prohibited; and

WHEREAS, during Phase 2 of the “Safe Start” reopening plan, restaurants and taverns are authorized to resume both indoor and outdoor on-premise consumption of food and beverages consistent with the phase-specific reopening plan requirements; and

WHEREAS, in the industry-specific requirements, Section 5 of the Phase 2 Restaurant/Tavern Reopening COVID-19 Requirements requires that the restaurants and taverns operate at no more than 50% of seating capacity, limiting the size of parties to five or less, and seating groups of guests at least 6 feet apart; and

WHEREAS, on November 15, 2020, Governor Jay Inslee issued Proclamation 20-25.8, “Stay Safe – Stay Healthy” Rollback of County-by-County Phased Reopening in response to a COVID-19 outbreak surge which renamed the original “Safe Start” plan; and

WHEREAS, Emergency Proclamation 20-25.8, “Stay Safe – Stay Healthy” closed restaurants and bars for dine-in service but permitted outdoor dining and to-go service provided that all outdoor dining complies with the requirements of the Outdoor Dining Guidance and limits table sizes to a maximum of five (5) people; and

WHEREAS, Proclamation 20-25.8 closed fitness facilities and gyms for indoor operations but permitted outdoor fitness classes subject to and limited by the outdoor social gathering restrictions; and

WHEREAS, on December 8, 2020, Governor Inslee extended the effective term of Proclamation 20-25.8 until January 4, 2021; and

WHEREAS, the City Council wishes to encourage business activity consistent with applicable Stay Safe – Stay Healthy requirements, including without limitation the requirements of Proclamation 20-25.8, and to make gyms, fitness facilities, restaurants, taverns and other food and beverage establishments safer and more viable to operate by leveraging available private and public space to be used as additional outdoor areas for fitness classes and dining activity while maintaining applicable social distancing requirements; and

WHEREAS, the City Council believes that allowing fitness facilities and gyms to temporarily expand their fitness classes onto privately-owned parking facilities where they may not otherwise be permitted by city code will support the Governor's Stay Safe – Stay Healthy plan, encourage compliance with social distancing requirements, and promote business operation and economic recovery while maintaining the focus on core public safety principles; and

WHEREAS, the City Council believes that allowing food and beverage establishments to temporarily expand their on-site dining areas onto privately-owned parking facilities where they may not otherwise be permitted by city code will support the Governor's Safe Start plan, encourage compliance with social distancing requirements, and promote business operation and economic recovery while maintaining the focus on core public safety principles; and

WHEREAS, it is necessary and appropriate during the state of local emergency to utilize an interim ordinance, which is intended to be only temporary until public health and economic conditions improve, to facilitate and encourage outdoor fitness to make fitness facilities and gyms safer to operate and to promote needed economic and business recovery for the City; and

WHEREAS, it is necessary and appropriate during the state of local emergency to utilize an interim ordinance, which is intended to be only temporary until public health and economic conditions improve, to facilitate and outdoor seating areas to make food and beverage establishments safer to operate and to promote needed economic and business recovery in the City; and

WHEREAS, the City Council finds that it is in the public interest to adopt this interim

Ordinance, and further declares that a public emergency exists requiring this Ordinance to take effect immediately upon passage.

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

Section 1. Authorization to Use Private Parking Areas for Outdoor Classes and Outdoor Dining. Subject to the provisions of this Ordinance, the City hereby amends Monroe Municipal Code Chapter 22.60, Temporary Uses, to allow gyms and fitness facilities and food and beverage establishments, existing as of the effective date of this Ordinance, to utilize private off-street parking areas, as defined by MMC 22.12.150, for outdoor fitness classes and dining use, provided the private off-street parking area is immediately adjacent to the gym, fitness facility or food and beverage establishment. The temporary permission conveyed by this Ordinance is expressly subject to the provisions of Chapter 22.60 MMC as amended hereby, as well as the following requirements:

A. Such fitness class use and outdoor dining use shall be permitted only if, and to the extent that, the gym, fitness facility or food and beverage establishment is authorized to operate under the state's Stay Safe – Stay Healthy phased reopening plan.

B. A gym, fitness facility or food and beverage establishment may operate in a private off-street parking area only with a valid temporary use permit issued by the City and only while this Ordinance remains in effect.

C. Any gym, fitness facility or food and beverage establishment that utilizes private off-street parking areas for outdoor classes or outdoor dining use as authorized by this Ordinance shall comply with all terms, conditions, and requirements of this Ordinance, as well as all terms, conditions and requirements of any permit issued pursuant to Chapter 22.60 MMC.

D. Use of any portion or percentage of private off-street parking areas for outdoor fitness classes or outdoor dining purposes shall require written proof of the property owner's approval. Without limitation of the foregoing, nothing in this Ordinance compels such approval by the property owner or otherwise requires a landlord to allow a tenant to expand its business to the exterior.

E. This Ordinance authorizes only temporary use of private areas otherwise restricted for parking purposes. Without limitation of the foregoing, nothing in this Ordinance authorizes permanent improvements or interior expansions. Such development must comply fully with applicable permit processes and standards except as provided by this Ordinance.

Section 2. Amendment of MMC 22.60.020. Subsection 22.60.020(A) of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

**22.60.020 Applicability.**

A. *Uses Allowed with Temporary Use Permit.* Temporary uses

are those uses that are of a limited duration and/or frequency or comprise multiple related events over a specified period. Except as provided by subsection (B) of this section, Exemptions, a temporary use permit shall be required for the following activities:

1. Temporary wireless communications facilities.
2. Community-oriented open-air markets.
3. Mobile vendors.
4. Model homes.
5. Seasonal retail sales conducted by businesses on private property.
6. Temporary construction buildings.
7. Temporary security guard dwellings.
8. The zoning administrator may authorize additional temporary uses not listed in this section when it is found that the proposed uses are in compliance with the provisions of this title.
- 9. The use of private off-street parking areas for temporary outdoor dining by food and beverage establishments in accordance with Ordinance No. XXX/2020.**
- 10. The use of private off-street parking areas for temporary outdoor classes by gyms and fitness facilities in accordance with Ordinance No. XXX/2020.**

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Section 3. Amendment of MMC 22.60.040. Section 22.60.040 of the Monroe Municipal Code is hereby amended by the addition of new subsections (H) and (I) to provide in their respective entirety as follows:

**22.60.040 Allowed temporary uses.**

The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitation noted herein, and as may be established by the zoning administrator:

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**H. *Temporary Outdoor Classes for Gyms and Fitness Facilities.* Temporary outdoor classes may be provided by those businesses that provide the services of fitness studio, independent sports and fitness training, group fitness, gym, and multi-use indoor fitness facility that provides private instruction and access to personal fitness training and/or specialized equipment, including but not limited to weight and resistance training, cardio exercise equipment, martial arts, yoga, gymnastics, dance, climbing, and similar**

personal training, group training or independent fitness services (collectively “gyms and fitness facilities”).

**1. General Provisions.**

a. Gyms and fitness facilities offering outdoor classes may conduct the same within private off-street parking areas immediately adjacent to the gym or fitness facility.

b. All such outdoor classes are subject to all applicable state law limitations, requirements and restrictions, including without limitation all applicable proclamations and guidance of the Washington State Governor.

c. Applicants shall provide the City with written proof of the property owner’s approval to utilize private off-street parking areas for outdoor classes.

d. The temporary use shall not include permanent improvements or interior expansions.

e. If an applicant desires to include a temporary membrane (e.g., a canopy or tent) for the temporary outdoor dining area, the City’s existing temporary membrane permit application and review process shall be incorporated into the temporary use permit application.

**I. Temporary Outdoor Dining.** Temporary outdoor dining may be provided by those businesses that provide the services of restaurant, fast food restaurant, micro-brewery, bakery, coffee shop or tavern, as respectively defined by Chapter 22.12 MMC, and “food service establishment” as referenced in Chapter 12.30 MMC (collectively, “food service establishments”).

**1. General Provisions.**

a. Food service establishments offering outdoor dining may provide outdoor dining within private off-street parking areas immediately adjacent to the food service establishment.

b. All such outdoor dining is subject to all applicable state law limitations, requirements and restrictions, including without limitation all applicable proclamations and guidance of the Washington State Governor.

c. Applicants shall provide the City with written proof of the property owner’s approval to utilize private off-street parking areas for outdoor dining.

d. The temporary use shall not include permanent improvements or interior expansions.

e. If an applicant desires to include a temporary

**membrane (e.g., a canopy or tent) for the temporary outdoor dining area, the City's existing temporary membrane permit application and review process shall be incorporated into the temporary use permit application.**

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Section 4. Nonwaiver.

Nothing in this Ordinance waives or purports to waive any requirement to obtain and/or comply with applicable permits or approvals from the City or other governmental entities with jurisdiction, specifically including without limitation the State Liquor and Cannabis Board or the State or county Health Department.

Section 5. Construction; Superseding Effect. The provisions of this Ordinance shall be reasonably construed and administered in a manner that effectuates its stated purpose. In the event that the provisions of this Ordinance irreconcilably conflict with any provision of the Monroe Municipal Code, it is the express legislative intent of the City Council that the provisions of this Ordinance shall control to the extent of such conflict.

Section 6. Public Hearing. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Clerk is hereby authorized and directed to schedule a public hearing on the interim regulations adopted under this Ordinance within 60 days.

Section 7. Findings. The above recitals, together with the content of Agenda Bill AB 20-229, are hereby adopted as preliminary findings in support of the interim regulations adopted under this Ordinance. Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council may adopt additional findings following the public hearing referenced in Section 6.

Section 8. Repealer. Ordinance No. 009/2020 is hereby repealed in its entirety.

Section 9. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or federal law or regulation, such decision or pre-emption shall not affect the validity or enforceability of the remaining portions of this ordinance or its application to other persons or circumstances.


Section 10. Declaration of Emergency; Effective Date. Based upon the findings above, the City Council declares that a public emergency exists. This ordinance shall therefore take effect immediately upon passage, and shall sunset automatically six (6) months from December 8, 2020, unless terminated earlier or extended by subsequent Council action.

ADOPTED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 8<sup>th</sup> day of December, 2020.

First Reading: waived  
Adoption: 12/08/2020  
Published: 12/11/2020  
Effective: 12/16/2020

CITY OF MONROE, WASHINGTON:

(SEAL)

  
[Geoffrey Thomas \(Dec 9, 2020 18:07 PST\)](#)

Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:



Rabecca R. Hasart, Interim City Clerk

  
[Zach Lell \(Dec 10, 2020 08:14 PST\)](#)

J. Zachary Lell, City Attorney









# Ord 025 2020 Interim Ord for parking for COVID

Final Audit Report

2020-12-10

Created:	2020-12-09
By:	Becky Hasart (bhasart@monroewa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmHPQz8FtlzQY0b4sIbHQJm_JxcibftpQ

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-  Document created by Becky Hasart (bhasart@monroewa.gov)  
2020-12-09 - 9:59:34 PM GMT- IP address: 70.90.183.189
-  Document emailed to Geoffrey Thomas (gthomas@monroewa.gov) for signature  
2020-12-09 - 10:00:19 PM GMT
-  Email viewed by Geoffrey Thomas (gthomas@monroewa.gov)  
2020-12-10 - 2:07:29 AM GMT- IP address: 73.239.188.223
-  Document e-signed by Geoffrey Thomas (gthomas@monroewa.gov)  
Signature Date: 2020-12-10 - 2:07:43 AM GMT - Time Source: server- IP address: 73.239.188.223
-  Document emailed to Zach Lell (zlell@omwlaw.com) for signature  
2020-12-10 - 2:07:45 AM GMT
-  Email viewed by Zach Lell (zlell@omwlaw.com)  
2020-12-10 - 4:13:23 PM GMT- IP address: 45.41.142.149
-  Document e-signed by Zach Lell (zlell@omwlaw.com)  
Signature Date: 2020-12-10 - 4:14:32 PM GMT - Time Source: server- IP address: 104.40.86.74
-  Agreement completed.  
2020-12-10 - 4:14:32 PM GMT