

ORDINANCE NO. ____

**ORDINANCE AMENDING AUSTIN CITY CODE
SECTION 11.088 BY CHANGING THE SECTION TITLE TO
“CONDITIONAL AND INTERIM USE PERMITS; AND BY
ADDING A SUBDIVISION 2
TO PROVIDE FOR INTERIM USE PERMITS**

The City Council of the City of Austin does ordain:

Section 1. Austin City Code Section 11.088 is hereby amended as follows:

Section 11.088 – New Title: Conditional and Interim Use Permits.

Subd. 1 New Title: Conditional Use Permit Criteria.

New Subdivision 2: A new Subd. 2 is enacted, which shall read as follows:

Subd. 2. - Interim Use Permits. Interim Use Permits may be approved for any use in any zoning district consistent with the requirements of this Subdivision 2. However, approval of such Interim Use Permit shall at all times be fully optional, allowing for the issuance of the permit either with or without conditions, or denial of the permit on any grounds. Any Interim Use Permit may be terminated by a change in this Chapter resulting in the disallowance of such use, whether by Interim Use Permit or otherwise.

A. Purpose. The purpose and intent of allowing interim uses is:

- 1). To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- 2) To allow a use that is presently judged acceptable by the City, but that, with anticipated development or redevelopment, will not be acceptable in the future.
- 3) To allow a use that otherwise may not be allowed under the zoning regulations but because of its temporary nature may be acceptable.

B. Application, public hearing, notice and procedure. The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for Conditional Use Permits as provided in Section 11.088, Subd. 1, with the exception that the Planning Commission shall make a recommendation to City Council for final determination. In addition to the general planning and zoning application requirements, applications for interim use permits shall include:

- 1) A signed statement agreeing:
 - a. That the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit.
 - b. That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and
 - c. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the interim use permit.
- 2) A statement addressing the relationship of the proposed project to the neighboring uses.

C. General Issuance Standards. The planning commission may recommend an interim use permit and the council may issue such interim use permits only if it finds that:

- 1) The period of time for which the interim use permit is to be granted will terminate before any adverse impacts are felt upon adjacent properties.
- 2) The date or event that will terminate the use can be identified with certainty, with a maximum duration of five years from the date of approval.
- 3) The use will not adversely impact the health, safety and welfare of the community;
- 4) The use is similar to existing uses in the area;
- 5) The use shall conform to zoning regulations, except the City Council may waive ordinance provisions upon a finding that the temporary nature of the interim use will eliminate the adverse effects the provisions were intended to prevent:
- 6) There is adequate assurance the property will be left in a suitable condition after the use is terminated;
- 7) By agreement, the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- 8) The property owner, or other mutually designated party (“party”), agrees to any conditions that the City Council has deemed appropriate for permission of the use, including an optional condition that the party provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit.

D. Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever is first:

- 1) The date stated in the permit;
- 2) A violation of conditions and subsequent revocation of the permit;
- 3) Revocation resulting from a cessation of the interim use for 180 consecutive days
- 4) A change in the zoning regulations that renders the use nonconforming.

State law reference— Interim uses, Minn. Stats. § 394.303

Section 2. Austin City Code Section 11.030 is hereby amended as follows:

“I=Interim” shall be deleted from the Use Table key as Interim Use Permits are allowed in all zoning district.

In the Use Table key, “Blank Cell = Prohibited” is replaced with “Blank Cell = Prohibited absent an Interim Use Permit” as Interim Use Permits are allowed in all zoning districts.

Any reference to “I” in the use chart (e.g., for community gardens in a B-3 district) are deleted as Interim Use Permits are allowed in all zoning districts.

Passed by a vote of Yeas and Nays this _____ day of _____, 2022

YEAS

NAYS

APPROVED:

Mayor

ATTEST:

City Recorder