

**Revisions to the Unified Land
Development Code**

Applicant

**Board of County Commissioners /
Amending Chapter 3-9, Temporary
Uses (3-9-95.1)**

Legislative

Countywide



MEMORANDUM

DATE: October 24, 2014

TO: Honorable Board of County Commissioners
Planning and Zoning Board

FROM: Ty Harris, Community Development Department Director
Shaun Cullinan, Charlotte County Planning and Zoning Official

RE: Revisions to Temporary Uses

Per the requests of Charlotte County Public Works Department and the Charlotte County Sheriff's Department, Community Development Department staff has been working with them to revise Section. 3-9-95.1. Temporary Uses (renumbering to Section. 3-9-87) in order to address the enforcement of road closures due to temporary uses.

Recommendation

Staff is recommending the Board of County Commissioners approve Section 3-9-95.1. Temporary Uses (Attachment 1.)

1 **Sec. 3-9-95.187. Temporary Uses**

2 (a) *General.* Certain uses are temporary in character. They vary in type and degree, as well as the
3 length of time involved. The purpose of this section is to specify regulations applicable to certain
4 temporary uses which, because of their impact on public infrastructure, services, and surrounding
5 land uses, require a temporary use permit. Unless otherwise specified in these zoning regulations,
6 the following regulations shall govern temporary uses. No temporary use identified herein shall be
7 exempt from the permit requirement except in accordance with this section.

8 (1) Unless approved by the zoning official, a temporary use cannot occupy on-site parking required
9 by these land development regulations to accommodate the ordinary parking requirements of
10 the existing structures and uses on the property.

11 (2) For the purposes of this section the following terms shall have the associated meanings:

12 *Footprint* shall mean the area impacted by the temporary use as measured from the
13 outside line of all the area devoted to the use, or the drip line of a tent or cover under which the
14 use is conducted, whichever is greater.

15 *Sale(s)* shall be considered to include any form of commercial transaction, including fund
16 raising activities by charitable and nonprofit organizations or school groups.

17 (3) Temporary use permits shall only be issued within the zoning districts for which the use is
18 allowed by right or for those uses which have been permitted by special exception. For
19 example, temporary use permits for commercial, sales, or services uses shall not be issued in
20 residential districts.

21 (4) Temporary use permits are restricted to those activities and locations listed on the application
22 and all temporary uses shall be confined to the dates and times specified in the permit. A
23 separate temporary use permit is required for each temporary use. Hours of operation of
24 temporary uses subject to this section shall be limited to 8:00 a.m. to 9:00 p.m., Sunday through
25 Thursday, and 8:00 a.m. to 11:00 p.m. on Friday and Saturday.

26 (5) No permanent or temporary lighting may be installed without an electrical permit and inspection.
27 Temporary lighting used to illuminate the outdoor event after dusk shall be designed and
28 arranged to reflect away from adjacent properties.

29 (6) Any temporary structures or exhibits to be constructed must be permitted in conjunction with the
30 temporary use permit and subject to all other permit and inspection requirements of applicable
31 county codes and state law.

32 (7) No activity, temporary tent, mechanical device, temporary sanitary facility, or animal associated
33 with any outdoor temporary use shall be closer than one hundred (100) feet from any
34 residentially zoned property.

35 (8) One (1) temporary sign advertising the event may be erected on the property in compliance with
36 section 3-9-95 of the Code.

37 (9) Traffic control may be required by the county or county sheriff's department and must be
38 arranged and paid for by the applicant.

39 (10) The applicant may be required to obtain approval from the county's fire rescue and emergency
40 medical services (Fire/EMS) department and employ, at the applicant's cost, any mitigation
41 measures required.

42 (11) Before any temporary use permit is issued for motor vehicle or recreational vehicle sales, the
43 applicant must furnish the county with a copy of a current motor vehicle dealer or recreational
44 dealer's license as required by F.S. Ch. 320.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-87. Temporary Uses

1 (b) *Applicability.* Any person or entity that desires to conduct any temporary use described in this section
2 or determined by the zoning official to be similar in nature to those described herein, unless
3 specifically exempted herein, shall be required to submit an application for a permit, and obtain the
4 permit before conducting the use. A permit issued to a corporation, organization, or entity shall
5 suffice for the persons engaging in the use on the site on behalf of the corporation, organization, or
6 entity. The owner(s) of the property upon which the temporary use is to be conducted shall be bound
7 by the terms of the permit, and shall signify consent to the permit by signing the permit application
8 before it is issued.

9 (1) Examples of temporary uses regulated by this section consist of the following:

- 10 a. Outdoor sales, parking lot sales or tent sales of merchandise, products, services or other
11 commercial activities.
- 12 b. Event uses, such as fairs, carnivals, circuses, and expositions or fair associations
13 chartered in accordance with F.S. Ch. 616.
- 14 c. Fund raising events conducted offsite by charitable organizations, nonprofit corporations,
15 or school groups, as well as promotions, sales and other activities by charitable
16 organizations, nonprofit corporations, or school groups.
- 17 d. Seasonal and holiday related promotions and sales, including Christmas tree sales,
18 pumpkin sales, fireworks sales, and the like.
- 19 e. Temporary religious or revival activities.
- 20 f. Neighborhood and community-wide yard sales and garage sales.
- 21 g. Any other temporary use similar in nature to the ones listed above, as determined by the
22 zoning official.

23 (2) The permit requirement of this section shall not apply to the following types of uses, provided
24 that such uses shall be required to meet all other requirements of law, including but not limited
25 to obtaining building or sign permits for temporary structures or signage:

- 26 a. Any temporary use as defined in this section which occupies a footprint less than one
27 hundred eighty (180) square feet.
- 28 b. Yard or garage sales conducted on residential parcels; provided that the use does not
29 exceed any of the requirements of a type 1 permit nor exceed two (2) calendar days in
30 length.
- 31 c. Grand opening sales by resident merchants connected with the grand opening of a
32 permanent use at the premises, including outside food and beverage vending; provided
33 such use does not exceed three (3) consecutive calendar days.
- 34 d. Temporary outdoor storage in residential districts, incidental to and exclusively in
35 association with the construction of a principal structure and only while a valid building
36 permit is in effect.
- 37 e. Such temporary uses which are extensions of a principal permitted use on-site and which
38 are to be conducted on the premises but outside the principal structure in which those uses
39 are permitted to occur; provided such use does not exceed five (5) consecutive calendar
40 days. Examples of which include, but are not limited to:
- 41 1. Religious or revival activities conducted on-site but outside the structures of the place
42 of worship.
- 43 2. Sidewalk sales, clearance, or tent sales conducted on-site by a resident merchant but
44 outside the principle permitted structures for such use.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-87. Temporary Uses

1 3. School events conducted on-site but outside the principle permitted structures for
2 such use.

3 (c) *Type 1 permit—Small.*

4 (1) A Type 1 permit shall be required for any temporary use occupying a footprint greater than one
5 hundred eighty (180) square feet or less than one thousand five hundred (1,500) square feet.

6 (2) No property shall have, or be a site of, more than six (6) type 1 temporary uses in a calendar
7 year. No type 1 temporary use shall continue for more than five (5) consecutive calendar days;
8 however, such uses may run concurrently (i.e. up to thirty (30) days) without incurring additional
9 permit fees.

10 (3) Type 1 permits shall be exempt from any fee but shall be required to conform to all other
11 provisions of this section.

12 (d) *Type 2 permits—Midsized.*

13 (1) A type 2 permit shall be required for any temporary use occupying a footprint greater than one
14 thousand five hundred (1,500) square feet but less than three thousand (3,000) square feet.

15 (2) No property shall have, or be a site of, more than three (3) type 2 temporary uses in a calendar
16 year. No type 2 temporary use shall continue for more than ten (10) consecutive calendar days;
17 however, such uses may run concurrently (i.e. up to thirty (30) days) without incurring additional
18 permit fees.

19 (e) *Type 3 permits—Large.*

20 (1) A type 3 permit shall be required for any temporary use that will occupy a footprint of three
21 thousand (3,000) square feet or more; or

22 (2) Any type 1 or type 2 temporary use that will, in the determination of the zoning official, require
23 more parking spaces than allotted on the subject property.

24 (3) No property shall have, or be a site of, more than two (2) type 3 temporary uses in a calendar
25 year. No type 3 temporary use shall continue for more than three (3) consecutive calendar days.

26 (4) The site of the temporary use must be cleared of all debris at the end of the use, and all
27 temporary structures must be removed no later than forty-eight (48) hours after the termination
28 of the use. A cash bond in an amount not to exceed two thousand dollars (\$2,000.00) or a
29 signed contract with the county's garbage collection franchisee may be required as part of the
30 application for the temporary use permit. Failure to clean up the site within said time period shall
31 result in the forfeiture of any cleanup bond, and any additional costs of cleanup in excess of the
32 cleanup bond may be assessed against the permit holder and/or property owner. In addition, no
33 future temporary use permit will be issued to the applicant or property owner until any
34 outstanding cleanup costs are paid in full.

35 (f) *[Security required.]* In addition to applicable permit fees, any type 2 temporary use permit shall
36 require the applicant to provide security in the amount of twenty-five thousand dollars (\$25,000.00)
37 and fifty thousand dollars (\$50,000) for any type 3 permit, in the form of a surety bond, issued by a
38 surety authorized to do business in the state of Florida, or an irrevocable letter of credit issued by a
39 Florida financial institution, or in the form of a cash security. The security shall be in favor of the
40 county, and benefit any person who shall suffer any loss that is provided for and recoverable under
41 this subsection. The security shall be released ninety (90) calendar days following the conclusion of
42 the temporary use upon the submittal of an affidavit from the applicant to the county, and the
43 acceptance of said affidavit by the county, that all conditions of the security have been met. The
44 conditions of such security shall be that:

45 (1) The applicant shall comply fully with all provisions of the Charlotte County Code and all other
46 applicable county, state, or federal laws regarding the temporary use sought; and

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-87. Temporary Uses

1 (2) The applicant has, to the county's satisfaction, mitigated any damages or impacts caused or
2 created by the temporary use.

3 (g) *Application procedure and review.* All applications for a temporary use permit shall be submitted to
4 the zoning official a minimum of ten (10) working days prior to the proposed use. The zoning official
5 shall grant or deny a temporary use permit or may grant a temporary use permit subject to suitable
6 conditions, safeguards, and stipulations within seven (7) working days. If denied, the zoning official
7 shall state the reasons in writing to the applicant.

8 (h) *Application process and fees.*

9 (1) *Application.* The applicant shall ensure that the application is accurate and complete. Any
10 intentional misrepresentations on the application by the applicant shall be grounds for denying
11 the permit. The application shall be made on a form acceptable to the zoning official and shall
12 include the following:

13 a. The name, address and telephone number of the applicant; and

14 b. The address and legal description of the property where the temporary use will be held. If
15 the property is not owned by the applicant, the name, address and telephone number of
16 the owner(s) of the property and notarized authorization of all property owner(s) of record
17 or their authorized agents, for use of the property; and

18 c. The date(s) of the event and hours of operation; and

19 d. The nature of the existing uses on the property along with the proposed temporary use;
20 and

21 e. Required parking for existing use as well as anticipated parking needs, including overflow;
22 and

23 f. The tax identification number of the applicant, if applicable; and

24 g. A site plan, drawn to scale, indicating the following:

25 1. Vehicular access onto the property; and

26 2. Location and use of any existing structures on the property; and

27 3. Location of any sanitary facilities; and

28 4. Location and amount of current and anticipated parking areas, including overflow.

29 h. For all type 3 permits, the following additional application requirements shall be provided:

30 1. A letter from the Charlotte County Sheriff setting forth the sheriff's determination
31 whether any additional security or police service is necessary and the arrangement
32 that has been made to accommodate that need; and

33 2. A letter from the Charlotte County Fire/EMS setting forth a determination on whether
34 any additional fire or rescue service is necessary and whether an arrangement has
35 been made to accommodate that need; and

36 3a. If a road closure is less than 24-hour period, the roadway Level-of-Service impact on
37 the roadway cannot be quantified due to these special events. However, the event
38 coordinator should submit the proposed maintenance of traffic plan at least 30 days
39 prior to the event so that Public Works staff can visit the subject location and make
40 suggestions before issuing the Public Works Department approval. Once Public
41 Works Department issues the approval, it is responsibility of the event coordinator to
42 work with the Fire/EMS and Sheriff's Office on the needed support from those
43 departments to safely execute the special event.

Land Development Regulations
Chapter 3-9. Zoning
Article III. Special Regulations

Sec. 3-9-87. Temporary Uses

1 3b. ~~If the special event needs a road closure for more than 24-hours (other than for an~~
2 ~~emergency event), applicant needs to attach a Maintenance of Traffic (MOT) plan~~
3 ~~(must be signed by a licensed Engineer in the State of Florida) with the permit~~
4 ~~application for the review by the Public Works Department at least 45 days prior to the~~
5 ~~event. This will allow the Public Works Department to properly review the application,~~
6 ~~work closely with the appropriate agencies and issue a Public Service Announcement~~
7 ~~(PSA) about the Road Closure."A letter from Charlotte County Public Works indicating~~
8 ~~that the proposed temporary use will not adversely affect the existing level of service~~
9 ~~on affected roadways and is not anticipated to pose any risk to existing public~~
10 ~~infrastructure or rights-of-way.~~

11 (2) Payment of a nonrefundable application fee shall be as follows:

12 a. Type 1 Permit:No fee

13 b. Type 2 Permit:\$300.00

14 c. Type 3 Permit:\$1,000.00

15 (3) In reviewing an application the zoning official shall take the following factors into account:

16 a. Ensure that the proposed temporary use complies with all the requirements of this section;
17 and

18 b. Review the compatibility of any proposed use with surrounding uses, ensuring that any
19 anticipated nuisances or incompatible features involved are suitably separated from
20 adjacent uses; and

21 c. Ensure that the proposed temporary use will not create any vehicular parking or circulation
22 problems, or will result in excessive vehicular traffic being generated or diverted onto
23 residential streets.

24 (~~Ord. No. 89-47, § 18, 6-22-89; Ord. No. 2002-011, § 1, 4-9-02; Ord. No. 2008-088, § 1, 10-21-08~~)