

Section 3-9-87**Temporary Uses.**

- (a) *General.* Certain uses are temporary in character. They vary in type and degree, as well as the length of time involved. The purpose of this section is to specify regulations applicable to certain temporary uses which, because of their impact on public infrastructure, services, and surrounding land uses, require a temporary use permit. Unless otherwise specified in these zoning regulations, the following regulations shall govern temporary uses. No temporary use identified herein shall be exempt from the permit requirement except in accordance with this section.
- (1) Unless approved by the zoning official, a temporary use cannot occupy on-site parking required by these Land Development Regulations to accommodate the ordinary parking requirements of the existing structures and uses on the property.
 - (2) For the purposes of this section the following terms shall have the associated meanings:
 - Footprint* shall mean the area impacted by the temporary use as measured from the outside line of all the area devoted to the use, or the drip line of a tent or cover under which the use is conducted, whichever is greater.
 - Sale(s)* shall be considered to include any form of commercial transaction, including fund raising activities by charitable and nonprofit organizations or school groups.
 - (3) Temporary use permits shall only be issued within the zoning districts for which the use is allowed by right or for those uses which have been permitted by special exception. For example, temporary use permits for commercial, sales, or services uses shall not be issued in residential districts.
 - (4) Temporary use permits are restricted to those activities and locations listed on the application and all temporary uses shall be confined to the dates and times specified in the permit. A separate temporary use permit is required for each temporary use. Hours of operation of temporary uses subject to this section shall be limited to 8:00 a.m. to 9:00 p.m., Sunday through Thursday, and 8:00 a.m. to 11:00 p.m. on Friday and Saturday.
 - (5) No permanent or temporary lighting may be installed without an electrical permit and inspection. Temporary lighting used to illuminate the outdoor event after dusk shall be designed and arranged to reflect away from adjacent properties.
 - (6) Any temporary structures or exhibits to be constructed must be permitted in conjunction with the temporary use permit and subject to all other permit and inspection requirements of applicable county codes and state law.
 - (7) No activity, temporary tent, mechanical device, temporary sanitary facility, or animal associated with any outdoor temporary use shall be closer than 100 feet from any residentially zoned property.
 - (8) One temporary sign advertising the event may be erected on the property in compliance with section 3-9-85 of the Code.
 - (9) Traffic control may be required by the County or County Sheriff's Department and must be arranged and paid for by the applicant.
 - (10) The applicant may be required to obtain approval from the County's Fire Rescue and Emergency Medical Services (Fire/EMS) Department and employ, at the applicant's cost, any mitigation measures required.
 - (11) Before any temporary use permit is issued for motor vehicle or recreational vehicle sales, the applicant must furnish the county with a copy of a current motor vehicle dealer or recreational dealer's license as required by F.S. Ch. 320.
 - (12) Any Type 1 or Type 2 temporary use that will, in the determination of the zoning official, require more parking spaces than allotted on the subject property, will be required to obtain a Special Exception.
 - (13) The site of the temporary use must be cleared of all debris at the end of the use, and all temporary structures must be removed no later than 48 hours after the termination of the use. A signed contract with the county's garbage collection franchisee, or a notarized letter that the property owner/applicant is responsible for the clean-up of the site, may be required as part of the application for the temporary use permit.

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

(1) Examples of temporary uses regulated by this section may include, but are not limited to, the following:

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

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

- a. Yard or garage sales conducted on residential parcels; provided that the use does not exceed any of the requirements of a Type 1 permit nor exceed two calendar days in length.
- b. Grand opening sales by resident merchants connected with the grand opening of a permanent use at the premises, including outside food and beverage vending; provided such use does not exceed three consecutive calendar days.
- c. Temporary outdoor storage in residential districts, incidental to and exclusively in association with the construction of a principal structure and only while a valid building permit is in effect.
- d. Such temporary uses which are extensions of a principal permitted use on-site and which are to be conducted on the premises but outside the principal structure in which those uses are permitted to occur; provided such use does not exceed five consecutive calendar days. Examples of which include, but are not limited to:
 1. Religious or revival activities conducted on-site but outside the structures of the place of worship.
 2. Sidewalk sales, clearance, or tent sales conducted on-site by a resident merchant but outside the principle permitted structures for such use.
 3. School events conducted on-site but outside the principle permitted structures for such use.

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(c) *Type 1 Permit.*

- (1) A Type one permit shall be required for any temporary use occupying a footprint up to 1,500 square feet.
- (2) No property shall have, or be a site of, more than six Type 1ne temporary uses in a calendar year. No type one temporary use shall continue for more than five consecutive calendar days; however, such uses may run concurrently (i.e. up to 30 days) without incurring additional permit fees.

(d) *Type 2 Permits.*

- (1) A Type 2 permit shall be required for any temporary use occupying a footprint greater than 1,500 square feet.
- (2) No property shall have, or be a site of, more than three Type 2 temporary uses in a calendar year.
- (3) No Type 2 temporary use shall continue for more than ten consecutive calendar days; however, such uses may run concurrently (i.e. up to 20 days) without incurring additional permit fees.
- (4) The final ten day permits shall not run concurrently and must be spaces at least five months apart.

(e) *Security Required.* In addition to applicable permit fees, any Type 2 temporary use permit shall require the applicant to provide security in the amount of \$50,000, in the form of a surety bond, issued by a surety authorized to do business in the state of Florida, or an irrevocable letter of credit issued by a Florida financial institution, or in the form of a cash security. The security shall be in favor of the County, and benefit any person who shall suffer any loss that is provided for and recoverable under this subsection. The security shall be released 90 calendar days following the conclusion of the temporary use upon the submittal of an affidavit from the applicant to the County, and the acceptance of said affidavit by the County, that all conditions of the security have been met. The conditions of such security shall be that:

- (1) The applicant shall comply fully with all provisions of the Charlotte County Code and all other applicable county, state, or federal laws regarding the temporary use sought; and
- (2) The applicant has, to the County's satisfaction, mitigated any damages or impacts caused or created by the temporary use.

(f) *Application Procedure and Review.* All applications for a temporary use permit shall be submitted to the Zoning Official a minimum of 15 working days prior to the proposed use. The Zoning Official shall grant or deny a temporary use permit or may grant a temporary use permit subject to suitable conditions, safeguards, and stipulations within seven working days. If denied, the Zoning Official shall state the reasons in writing to the applicant.(g) *Application Process and Fees.*

- (1) Application. The applicant shall ensure that the application is accurate and complete. Any intentional misrepresentations on the application by the applicant shall be grounds for denying the permit. The application shall be made on a form acceptable to the Zoning Official and shall include the following:
 - a. The name, address and telephone number of the applicant; and
 - b. The address and legal description of the property where the temporary use will be held. If the property is not owned by the applicant, the name, address and telephone number of the owner(s) of the property and notarized authorization of all property owner(s) of record or their authorized agents, for use of the property; and
 - c. The date(s) of the event and hours of operation; and
 - d. The nature of the existing uses on the property along with the proposed temporary use; and

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- e. Required parking for existing use as well as anticipated parking needs, including overflow; and
 - f. The Business Tax Receipt (BTR) of the applicant, if applicable; and
 - g. A site plan, drawn to scale, indicating the following:
 1. Vehicular access onto the property; and
 2. Location and use of any existing structures on the property; and
 3. Location of any sanitary facilities; and
 4. Location and amount of current and anticipated parking areas, including overflow.
 - h. For all Type 2 permits, the following additional application requirements shall be provided:
 1. A letter from the Charlotte County Sheriff setting forth the Sheriff's determination whether any additional security or police service is necessary and the arrangement that has been made to accommodate that need; and
 2. A letter from the Charlotte County Fire/EMS setting forth a determination on whether any additional fire or rescue service is necessary and whether an arrangement has been made to accommodate that need; and
 3. A letter from the Charlotte County Public Works Department setting forth a determination on whether any additional roadway plans are necessary and whether an arrangement has been made to accommodate that need;
 - (i) If a road closure is less than 24-hour period, the roadway Level-of-Service impact on the roadway cannot be quantified due to these special events. However, the event coordinator should submit the proposed maintenance of traffic plan at least 30 days prior to the event so that Public Works staff can visit the subject location and make suggestions before issuing the Public Works Department approval. Once Public Works Department issues the approval, it is the responsibility of the event coordinator to work with the Fire/EMS and Sheriff's Office on the needed support from those departments to safely execute the special event.
 - (ii) If the special event needs a road closure for more than 24-hours (other than for an emergency event), applicant needs to attach a Maintenance of Traffic (MOT) plan (must be signed by a licensed Engineer in the State of Florida) with the permit application for the review by the Public Works Department at least 45 days prior to the event. This will allow the Public Works Department to properly review the application, work closely with the appropriate agencies and issue a Public Service Announcement (PSA) about the Road Closure.
- (2) Payment of a nonrefundable application fee shall be as follows:
- a. Type 1 Permit: \$150.00.
 - b. Type 2 Permit: \$300.00.
- (3) In reviewing an application, the zoning official shall take the following factors into account:
- a. Ensure that the proposed temporary use complies with all the requirements of this section; and
 - b. Review the compatibility of any proposed use with surrounding uses, ensuring that any anticipated nuisances or incompatible features involved are suitably separated from adjacent uses; and
 - c. Ensure that the proposed temporary use will not create any vehicular parking or circulation problems, or will result in excessive vehicular traffic being generated or diverted onto residential streets.

(Ord. No. 89-47, § 18, 06-22-1989; Ord. No. 2002-041, § 1, 04-09-2002; Ord. No. 2008-088, § 1, 10-21-2008; Ord. No. 2014-041, § 1, 11-25-2014; Ord. No. 2014-076, § 1, 11-25-2014; Ord. No. 2018-076, § 1, 07-24-2018)