

ORDINANCE G-5644

AN ORDINANCE AMENDING THE CODE OF THE CITY OF PHOENIX, ARIZONA, PART II, CHAPTER 41, THE ZONING ORDINANCE OF THE CITY OF PHOENIX, BY AMENDING CHAPTER 7, SECTION 708 (TEMPORARY USES) TO ADD AN ADMINISTRATIVE TEMPORARY USE PERMIT PROCESS AND CLARIFY EXISTING TEMPORARY USE PERMIT LANGUAGE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as

follows:

SECTION 1. That Chapter 7 of the Zoning Ordinance, Section 708

(Temporary Uses), is amended to read as follows:

- A. ~~Use permits for temporary uses and structures shall be required in any nonresidential district in which such use or structure is not otherwise allowed or regulated. A use permit may not be obtained for a temporary mobile vendor use or mobile vending unit.~~
PURPOSE. THE PURPOSE OF THE TEMPORARY USES SECTION IS TO REGULATE LIMITED DURATION USES, NOT OTHERWISE ALLOWED IN THE APPLICABLE ZONING DISTRICTS. *3

THE PLANNING AND DEVELOPMENT DIRECTOR MAY ISSUE AN ADMINISTRATIVE TEMPORARY USE PERMIT UPON WRITTEN REQUEST AND SUBMISSION OF AN APPLICATION. ANY APPROVAL IS CONTINGENT UPON THIS ORDINANCE, CITY POLICY, AND WRITTEN STIPULATIONS CONTAINED ON THE PERMIT.

A TEMPORARY USE PERMIT ALLOWS FOR A TEMPORARY USE THAT DOES NOT MEET THE REQUIREMENTS OF AN ADMINISTRATIVE TEMPORARY USE PERMIT. AN APPLICATION PER SECTION 307 SHALL BE FILED TO REQUEST APPROVAL OF A TEMPORARY USE PERMIT.

~~B. Temporary uses or structures shall be accessory to the primary use on the lot. Temporary uses or structures may be either indoor or outdoor.~~

B. GENERAL REGULATIONS. THESE PROVISIONS APPLY TO BOTH ADMINISTRATIVE TEMPORARY USE PERMITS AND TEMPORARY USE PERMITS. TEMPORARY USES SHALL MEAN EITHER A LAND USE OR A STRUCTURE ON THE PARCEL.

1. Temporary uses ~~or structures~~ shall be accessory to the primary use on the lot, AND MAY BE EITHER INDOORS OR OUTDOORS. THE PLANNING AND DEVELOPMENT DIRECTOR MAY WAIVE THIS REQUIREMENT BASED UPON THE FOLLOWING CRITERIA:

- a. THERE EXISTS A SUBSTANTIAL NEED FOR IT TO BE CONSIDERED A PRIMARY USE FOR A LIMITED PERIOD OF TIME,
- b. NECESSARY TO ENJOY REASONABLE AND SUBSTANTIAL PROPERTY RIGHTS,
- c. WILL NOT CREATE AN ADVERSE IMPACT ON OTHER PROPERTIES OR PERSONS WITHIN THE VICINITY. ~~Temporary uses or structures may be either indoor or outdoor.~~

2. THE PLANNING AND DEVELOPMENT DIRECTOR MAY REVOKE A TEMPORARY USE PERMIT IF ANY CONDITIONS OR STIPULATIONS ARE NOT MET.

3. TEMPORARY USES OR STRUCTURES SHALL NOT BE PERMITTED WITHIN A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT UNLESS OTHERWISE AUTHORIZED IN THE PUD. THIS PROVISION DOES NOT APPLY TO PUD'S WITH AN ADOPTED ORDINANCE PRIOR TO AUGUST 6, 2011, THE EFFECTIVE DATE OF ORDINANCE NO. G-5644.

C. ADMINISTRATIVE TEMPORARY USE PERMIT. AN ADMINISTRATIVE TEMPORARY USE PERMIT (ATUP) IS SUBJECT TO THE FOLLOWING:

1. AN ADMINISTRATIVE TEMPORARY USE PERMIT IS REQUIRED FOR THE FOLLOWING USES OR ANALOGOUS USES:
 - a. COMMUNITY OR OTHER SPECIAL EVENTS ON COMMERCIAL PROPERTIES.
 - b. INTERIM SURFACE PARKING OR TEMPORARY EVENT PARKING.
 - c. PROMOTIONAL EVENTS FOR COMMERCIAL RETAIL OR SERVICE BUSINESSES.
 - d. TEMPORARY RESIDENTIAL DWELLING UNITS OR RESIDENTIAL ACCESSORY STRUCTURES DURING CONSTRUCTION.
 - e. TEMPORARY EMPLOYMENT OFFICES DURING CONSTRUCTION.
 - f. PORTABLE SEARCHLIGHTS.
 - g. PROMOTIONAL VEHICLE SALES FOR SITES WITH A MINIMUM OF 20 CONTIGUOUS ACRES IN SIZE AND CONDUCTED BY AN EXISTING LICENSED AUTO DEALERSHIP.
 - h. TEMPORARY GENERATORS.
 - i. TEMPORARY CONSTRUCTION YARDS OR STAGING AREAS.
2. APPLICANTS SHALL SUBMIT THE FOLLOWING:
 - a. APPLICATION FORM
 - b. ADDRESS OR LOCATION OF PROPERTY.
 - c. LETTER OF AUTHORIZATION FROM THE PROPERTY OWNER GIVING PERMISSION TO HOLD THE EVENT ON SPECIFIED DAYS AND TIMES.

- d. SITE PLAN SHOWING THE LOCATION OF EVENT ON SUBJECT PROPERTY.
 - e. SUBMITTAL FEE IN ACCORDANCE WITH APPENDIX A OF THE ZONING ORDINANCE.
3. THE PLANNING AND DEVELOPMENT DIRECTOR SHALL REVIEW APPLICATIONS AND MAY GRANT APPROVAL BASED UPON THE FOLLOWING CRITERIA:
- a. THE USE SHALL NOT CAUSE A SIGNIFICANT INCREASE IN ODOR, DUST, GAS, NOISE, VIBRATION, SMOKE, HEAT, OR GLARE AT A LEVEL EXCEEDING THAT OF AMBIENT CONDITIONS.
 - b. THE USE SHALL COMPLY WITH ALL OTHER CODES AND ORDINANCES.
 - c. THE USE SHALL NOT REDUCE THE NUMBER OF PARKING SPACES BELOW THE NUMBER REQUIRED BY THE ZONING ORDINANCE FOR THE EXISTING USES.
 - d. DATES, TIMES, DURATION, AND OTHER REQUIREMENTS SHALL BE IN ACCORDANCE WITH THE FOLLOWING, OR AS OTHERWISE MAY BE LIMITED BY THE PLANNING AND DEVELOPMENT DIRECTOR AND LISTED ON THE PERMIT.
 - (1) THE APPROVAL OF THE FOLLOWING SHALL NOT EXCEED A LENGTH OF FIVE CONSECUTIVE DAYS WITH A MAXIMUM OF FIVE EVENTS PER CALENDAR YEAR AND A MAXIMUM OF TWO EVENTS PER MONTH:
 - (a) COMMUNITY OR OTHER SPECIAL EVENTS ON COMMERCIAL PROPERTIES.
 - (b) PROMOTIONAL VEHICLE SALES FOR SITES WITH A MINIMUM OF 20 CONTIGUOUS ACRES IN SIZE

CONDUCTED BY AN EXISTING
LICENSED AUTO DEALERSHIP.

- (c) TEMPORARY EVENT PARKING
- (2) THE APPROVAL OF THE FOLLOWING SHALL NOT EXCEED A LENGTH OF FIVE CONSECUTIVE DAYS WITH A MAXIMUM OF TWELVE EVENTS PER CALENDAR YEAR AND A MAXIMUM OF TWO EVENTS PER MONTH:
 - (a) PROMOTIONAL EVENTS FOR COMMERCIAL RETAIL OR SERVICE BUSINESSES.
 - (b) PORTABLE SEARCHLIGHTS.
- (3) THE FOLLOWING USES MAY BE APPROVED FOR UP TO ONE YEAR:
 - (a) TEMPORARY RESIDENTIAL DWELLING UNITS OR RESIDENTIAL ACCESSORY STRUCTURES DURING CONSTRUCTION.
 - (b) TEMPORARY EMPLOYMENT OFFICES DURING CONSTRUCTION.
 - (c) TEMPORARY GENERATORS.
 - (d) TEMPORARY CONSTRUCTION YARDS OR STAGING AREAS.
 - (e) INTERIM SURFACE PARKING.
- e. THE USE SHALL NOT EMIT DIRECT LIGHT THAT IS GREATER THAN 1-FOOT CANDLE AT THE PROPERTY LINE OR BROADCAST SOUND BEYOND THE BOUNDARIES OF THE PROPERTY ON WHICH THE USE IS CONDUCTED UNLESS APPROVED BY THE PLANNING AND DEVELOPMENT DIRECTOR.
- f. AN ADMINISTRATIVE TEMPORARY USE PERMIT FOR A PARCEL MAY BE DENIED WHEN THE

PROPERTY OWNER HAS BEEN ISSUED A NOTICE OF VIOLATION THAT WAS RELATED TO PREVIOUS TEMPORARY USES WITHIN THE LAST TWO YEARS.

4. USES THAT REQUIRE AN ADMINISTRATIVE TEMPORARY USE PERMIT MAY NOT BE ALTERED OR EXPANDED UNLESS APPROVED BY THE PLANNING AND DEVELOPMENT DIRECTOR.

⊕ D. **TEMPORARY USE PERMITS.** OTHER THAN A MOBILE VENDOR USE OR MOBILE VENDING UNIT, A TEMPORARY USE PERMIT SHALL BE OBTAINED PURSUANT TO SECTION 307 ~~Time periods for temporary use permits will be established as follows:~~ +2

1. The Zoning Administrator MAY GRANT A TEMPORARY USE PERMIT FOR UP TO THIRTY-SIX MONTHS ~~will establish the time period in the use permit hearing that shall not exceed twelve months.~~ A time extension of ~~no more than twelve months~~ OF NO MORE THAN SIX MONTHS may be granted only through an additional use permit hearing. +2
2. THE FOLLOWING WILL APPLY TO SITES WITH APPROVED USE PERMITS PRIOR TO AUGUST 6, 2011, THE EFFECTIVE DATE OF ORDINANCE NO. G-5644: If the temporary use is recurring and occurs less than fifty days during the calendar year, then a use permit must be obtained for each of the first two years. In the third and consecutive, subsequent years, no use permit approval shall be required to continue the temporary use permitted by the use permit upon complying with the following: (1) payment of the application fee set forth in the City Code; and (2) upon a finding by the Zoning Administrator that the temporary use has not been detrimental to persons residing or working in the vicinity, to adjacent property or to the neighborhood. +2

~~D. A temporary permit shall be required in any nonresidential zoning district upon a finding by the Zoning Administrator or his duly authorized representative that all temporary uses or structures on a property shall meet and comply with the following criteria: *2, *4~~

- ~~1. The uses or structures shall comply with all applicable codes and ordinances. *4~~

2. ~~The approval shall not exceed a length of five consecutive days (excluding installation and removal) with a maximum of four events per calendar year.~~
3. ~~The number of parking spaces shall not be reduced below the number of spaces required by Section 702 of this ordinance or below ten percent of the spaces provided, whichever is greater. *4~~
4. ~~The use shall not be conducted between the hours of 10:00 p.m. and 8:00 a.m.~~
5. ~~No direct light or sound associated with such use or structure shall be visible or broadcast beyond the boundaries of the lot.~~
6. ~~A fee has been paid in an amount equal to the minor promotional event fee set forth in the zoning fee schedule of this Code.~~

E. A nonresidential use in a residential district may have a temporary use upon a finding by the Zoning Administrator ~~his duly authorized representative~~ that the temporary use ~~or structure~~ meets the following criteria: +2

1. The subject parcel must have its primary driveway on an arterial street. Ingress and egress to the site during the time period the temporary use is functioning is restricted to arterial street driveways. +2
2. The subject parcel shall have no zoning violations on record for the previous twelve months. +2
3. The use or structure shall comply with all OTHER applicable codes and ordinances. +2
4. The approval shall not exceed a length of three consecutive days (excluding installation and removal) with a maximum of four events per calendar year. +2
5. The use or structure ~~must be spaced~~ SHALL BE SETBACK A MINIMUM OF fifty feet from the lot line of any adjacent residential use. +2
6. The number of parking spaces shall not be reduced below the number of spaces required by THE ZONING

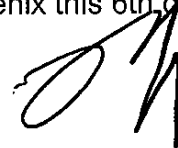
ORDINANCE ~~Section 601.C [sic]~~ of this ordinance or below ten percent of the spaces provided, whichever is greater. +2

7. The use shall not be conducted between the hours of 10:00 p.m. and 8:00 a.m. +2
8. No direct light or sound associated with such use or structure shall be visible or broadcast beyond the boundaries of the lot. +2
9. A third party, commercial use that is unrelated to the primary use of the subject parcel may not sell retail merchandise indoors or out-of-doors, unless the third party is a nonprofit organization. +2
10. A fee has been paid in an amount equal to the minor promotional event fee set forth in the zoning fee schedule of this code. +2

~~F. Portable searchlights shall be permitted, notwithstanding the limitations of the individual districts, when in compliance with the following standards: +1~~

- ~~1. There shall be no advertising located on any part of the searchlight or its supporting structure. +1~~
- ~~2. No searchlight shall be illuminated at any time when the angle between its beam and the ground surface is less than sixty degrees. +1~~
- ~~3. The searchlight display shall comply with the following sections: +1~~

PASSED by the Council of the City of Phoenix this 6th day of July, 2011.



MAYOR



ATTEST:

C Meyer City Clerk

APPROVED AS TO FORM:

Margaret Wilson Acting City Attorney

REVIEWED BY:

[Signature] City Manager
MLW:amt:921478v1 (CM 19) (Item 7) 7/6/11