



City of Phoenix
PLANNING AND DEVELOPMENT DEPARTMENT

Staff Report: Z-TA-2-08
Zoning Ordinance Text Amendment
June 1, 2011

Application No Z-TA-2-08 Amend Sections 708 regarding temporary uses.

Staff recommendation: Staff recommends approval of Z-TA-8-11 as shown in the recommended text in Attachment A.

Purpose

The intent of this text amendment is to update zoning regulations pertaining to temporary uses to reflect the current needs of the community. The proposed amendment will allow staff to apply customized standards to appropriately address the differing levels of temporary uses. This text amendment will also assist in improving staff's oversight of temporary use requests and better clarify to the public the requirements on how to conduct temporary uses. All stipulations will be placed on the administrative temporary use permit that is required to be kept on the premises during the temporary event. This will allow for better zoning enforcement by the Neighborhood Services Department should a neighborhood have concerns with a temporary use.

Background

This request was initiated by the Planning Commission on February 27, 2008. Planning and Development staff has worked closely with the Neighborhood Services, City Clerk, and Law departments in developing this proposed text amendment. The coordination between different departments was necessary to discuss overlapping regulations and processes concerning temporary uses.

The current Zoning Ordinance has two types of regulations for temporary uses: (1) a temporary use permit, which involves a Zoning Adjustment public hearing; and (2) a temporary permit, which is issued over the counter by staff. Staff has run into several challenges when reviewing and issuing temporary permits at the zoning counter, specifically in regards to authenticating property owner authorization, determining appropriateness of proposed temporary uses, and the recurrent submission of incomplete applications. There was also a need to review what types of temporary use permit requests were being submitted most frequently for the Zoning Adjustment public hearing. This review of repetitive temporary use requests helped staff determine whether or not current zoning regulations were creating undue burdens for property owners by requiring the additional public hearing process.

Administrative Temporary Use Permit

There was a need to create an alternative process that allowed more oversight by staff than the current over the counter temporary permit process but not as burdensome as the temporary use permit requests requiring a public hearing. Staff proposes replacing the current over the counter temporary permit with an administrative temporary use permit to help alleviate the recurring issues staff encounters at the zoning counter and to provide for better coordination with enforcement staff in the Neighborhood Services Department. The administrative process will require some additional review and processing time but the proposed text amendment also includes additional allowances in temporary uses for businesses.

Greater Allowance for Durations/Frequencies

Commercial businesses will be able to utilize longer durations for temporary uses and will be permitted to apply for a greater number of requests within a calendar year. For example, a commercial property is currently permitted to apply for a maximum of 4 temporary permits per calendar year with a maximum of 5 consecutive days for each temporary permit, which would calculate to 20 days of conducting a temporary use on a parcel. The proposed text amendment would allow a commercial property to potentially have a maximum of 12 permits per calendar year still with a maximum of 5 consecutive days for each temporary permit. This would allow a maximum of 60 days of temporary uses within one year, if a parcel maximized all of their temporary use permit allowances. To help ensure that a property does not take advantage of the longer durations and frequencies, staff also proposes placing a maximum on the number of permits per month a parcel may have. This maximum of 2 permits per month will help minimize the potential burden of the increase in activity for nearby residences during any one month period.

When staff reviewed the types of temporary use permit requests that were most frequently going through the Zoning Adjustment public hearing, the cases typically involved requests to exceed the limitation on the length of days currently imposed. The Zoning Ordinance requires applicants to request a temporary use permit when the proposed temporary use exceeds the maximum 4 permits per calendar year. Common requests staff found included temporary parking lots, interim uses during construction (i.e. accessory residential structures and construction staging), and special community events (i.e. concerts). Staff determined that these uses could have more flexible requirements to eliminate the public hearing process but by imposing additional conditions to mitigate common concerns, such as noise and traffic, staff could administratively review the application rather than requiring the applicant go through an extensive public hearing process. There will be pre-determined policy guidelines and criteria to assist in staff's decision-making process, which will clarify for the applicant what staff will consider when reviewing applications.

Description of the Proposed Text

The proposed text amendment divides Section 708 Temporary Uses into five different parts: Purpose, General Regulations, Administrative Temporary Use Permit, Temporary Use Permit, and Nonresidential Temporary Uses in Residential Districts.

Purpose

Provides an introduction to the section and clarifies the two types of temporary permits (administrative and temporary use permit).

General Regulations

These regulations will be applicable to both types of temporary permits. It includes some additional discretion and revocation authority to the Planning and Development director.

Administrative Temporary Use Permits

Outlines the different types of temporary uses, the application requirements, criteria for approval, restrictions, and authorization for staff to deny an administrative request when a site has a history of violations. The following table summarizes the different levels of temporary uses that could be administratively permitted approved:

SUMMARY OF DAY, TIMES, DURATION ALLOWANCES				
Level A	Temporary Use	Max # of Days	Max # / Year	Max # / Month
		5	5	2
	Community or other special events			
	Promotional vehicle sales for sites with a minimum of 20 contiguous acres and in conjunction with a licensed auto dealership			
	Temporary event parking			
Level B	Temporary Use	Max # of Days	Max # / Year	Max # / Month
		5	12	2
	Promotional events for commercial retail or service businesses (i.e. grand openings, sidewalk sale)			
	Portable searchlights			
Level C	Temporary Use	Max # of Days	Max # / Year	Max # / Month
	<i>The following temporary uses can be approved for up to one year.</i>			
	Temporary residential dwelling units or accessory structures during construction			
	Temporary employment offices during construction			
	Temporary generators			
	Temporary construction yards or staging areas			
	Interim surface parking			

Temporary Use Permits

The temporary use permits granted through the Zoning Adjustment public hearing process will still be regulated similarly to the current temporary use permit requirements. The exceptions include the increase from 12 months to 36 months that a Zoning Adjustment hearing officer can approve the request for and the allowance to obtain a temporary permit over the counter for recurring approvals after the second consecutive temporary use permit. Staff increased the duration of approval to 36 months to provide greater flexibility for the applicant and hearing officer. The intensity of the public hearing process warrants for this allowance to be considered during the public process.

Nonresidential in Residential

The residential districts will maintain the same temporary uses requirements.

Conclusion

Staff will be creating a policy document that implements the Zoning Ordinance regulations. The policy document will have more detailed information regarding the steps involved in applying for the administrative or temporary use permits. It will act as a process guide for applicants to better understand the criteria, conditions uses would be subject to, revocation and appeal processes. The policy portion will also provide internal staff with a reference document to coordinate with other department teams, such as Neighborhood Services enforcement staff and License Services staff, and their procedures.

This text amendment will help update the temporary uses zoning regulations, encourage greater utilization of commercial properties, improve staff processes and allow for better coordination between departments. It also allows for additional temporary use events, but subject them to a better administrative review process to ensure adequate protections for neighborhoods. Staff recommends approval of the change to the Zoning Ordinance as presented in Attachment A.

Writer

Wathsna Sayasane

5/27/2011

AS

Attachments

A. Proposed Language

Attachment A – Proposed Language

(Revised 5/27/11)

Amend Chapter 7, Section 708 (Temporary Uses) 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 THOSE USES AND ACTIVITIES OF A LIMITED DURATION NOT OTHERWISE ALLOWED IN THE APPLICABLE ZONING DISTRICTS AND THAT MAY IMPACT THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PUBLIC. *3

UPON WRITTEN REQUEST AND SUBMISSION OF AN APPLICATION, THE PLANNING AND DEVELOPMENT DIRECTOR OR THEIR DESIGNEE MAY ISSUE AN ADMINISTRATIVE TEMPORARY USE PERMIT. ANY APPROVAL IS CONTINGENT UPON THIS ORDINANCE 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 APPLICANT SHALL FILE AN APPLICATION PER SECTION 307 TO REQUEST AN 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.
1. Temporary uses or structures shall be accessory to the primary use on the lot, UNLESS OTHERWISE AUTHORIZED BY THE PLANNING AND DEVELOPMENT DIRECTOR UPON THE FINDING THAT THERE EXISTS A SUBSTANTIAL NEED FOR IT TO BE CONSIDERED A PRIMARY USE FOR A LIMITED PERIOD OF TIME, AND IS NECESSARY FOR THE OWNER TO ENJOY REASONABLE AND SUBSTANTIAL PROPERTY RIGHTS, AND 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 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 (INSERT MONTH, DAY, YEAR), THE EFFECTIVE DATE OF ORDINANCE NO. G-XXXX

C. **ADMINISTRATIVE TEMPORARY USE PERMIT.** AN ADMINISTRATIVE TEMPORARY USE PERMIT IS SUBJECT TO THE FOLLOWING:

1. AN ADMINISTRATIVE TEMPORARY USE PERMIT IS REQUIRED FOR THE FOLLOWING USES OR STRUCTURES OR ANALOGOUS USES OR STRUCTURES:
 - 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 AT A MINIMUM OF 20 CONTIGUOUS ACRES IN SIZE AND IN CONNECTION WITH 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 PHOENIX ZONING ORDINANCE.
3. THE PLANNING AND DEVELOPMENT DIRECTOR OR DESIGNEE SHALL REVIEW APPLICATIONS AND MAY GRANT ADMINISTRATIVE TEMPORARY USE PERMITS 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 OR DESIGNEE AND LISTED ON THE PERMIT.

- (1) THE APPROVAL OF THE FOLLOWING ADMINISTRATIVE TEMPORARY USES 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 AT A MINIMUM OF 20 CONTIGUOUS ACRES IN SIZE AND IN CONNECTION WITH AN EXISTING LICENSED AUTO DEALERSHIP.
 - (c) TEMPORARY EVENT PARKING
- (2) THE APPROVAL OF THE FOLLOWING ADMINISTRATIVE TEMPORARY USES 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 ADMINISTRATIVE TEMPORARY 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 OR DESIGNEE.
 - 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 OR DESIGNEE.

G 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 may be granted only through an additional use permit hearing.~~ +2
- 2. THE FOLLOWING WILL APPLY TO SITES WITH APPROVED USE PERMITS PRIOR TO (INSERT MONTH, DAY, YEAR), THE EFFECTIVE DATE OF ORDINANCE NO. G-XXXX: 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 or DESIGNEE 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 AT LEAST 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 in-doors 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~~

705.X	(Electrical signs) +1
705.BB.3	(Traffic control device) +1
705.FF	(Occupancy of the right-of-way) +1
705.NN	(Traffic hazard) +1
705.QQ	(Visibility at intersections) +1
Editor's note— The subsection numbers listed above appear to be obsolete as such subsections do not appear in the code.	

~~G. A searchlight may be located within a C-1, C-2, C-3, A-1, A-2, Commerce Park, PSC, or RSC district so long as it is not placed within one hundred fifty feet of an occupied residence. +1~~

- H. ~~A searchlight display may consist of two searchlights. Additional lights may be authorized with a use permit. +1~~

- I. ~~A searchlight display may be located on a property for twelve days in any calendar year. Additional days may be authorized with a use permit. +1~~
 - 1. ~~A searchlight display may be located on a shopping center containing seventy-five acres or more or at the Veterans Memorial Coliseum so long as said light is not placed within three hundred feet of an occupied residence, notwithstanding the provisions of subsection G. +1~~

 - 2. ~~Notwithstanding the other provisions of this section, a searchlight may be displayed at a grand opening within one hundred fifty feet of an occupied residence and shall not be displayed for more than three days in any calendar year. +1~~

- J. ~~A form, furnished by the Planning Department, shall be submitted to the Planning Department for each searchlight display. If not submitted prior to the occurrence, it shall be postmarked no later than the date of the display. +1~~

- K. ~~No searchlight shall be operated between the hours of 11:00 p.m. and dawn. +1~~