

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: Introduction: December 18, 2012
Public Hearing: January 15, 2013

CONTACT PERSON/PHONE: Arturo Rubio, (915) 541-4633, rubioax@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An Ordinance amending Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.680 (Temporary Uses), of the El Paso City Code to amend the application process and standards for temporary uses. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

BACKGROUND / DISCUSSION:

The Temporary Use regulations were initially amended March 20, 2012. The first amendment request by Building Permits and Inspections Division included the following:

1. Add Application Requirements
2. Categorize Uses

The approved amendment better categorizes temporary uses and organizes the application process to aid plan reviewers in assessing the correct permit fees.

The new amendment proposes that temporary structures be setback a minimum of 10 ft. from the front property line and shall not hinder the visibility sight triangle as requested by Building Permits and Inspections Division. The request is based on safety concerns and to prevent the impeding of pedestrian circulation along sidewalks. The amendment also permits temporary uses in the C-5 (Commercial) district as requested by the Downtown Management District.

PRIOR COUNCIL ACTION:

On March 20, 2012 City Council approved the first amendment to the temporary use regulations.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Approval Recommendation 5-0

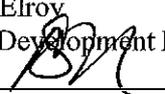
*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew S. McElroy
Director, City Development Department



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS), SECTION 20.10.680 (TEMPORARY USES), OF THE EL PASO CITY CODE TO AMEND THE APPLICATION PROCESS AND STANDARDS FOR TEMPORARY USES. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code has regulations for temporary use permit application procedures and the categorizing of temporary uses; and,

WHEREAS, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

WHEREAS, the El Paso City Council has determined that the addition of temporary use permit application procedures and the categorizing of temporary uses within the City of El Paso is necessary, and is in the best interest of the public and will promote the public health, safety and welfare of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 20, Zoning, Chapter 20.10, Supplemental Use Regulations, Section 20.10.680, Temporary Uses, of the El Paso City Code shall be amended in its entirety as follows:

20.10.680 Temporary Uses.

- A. Intent and Purpose. The intent of this section is to accommodate reasonable requests for interim or temporary uses when such activities are desirable for the community, or are temporarily required in the process of establishing a permitted use or constructing a public facility. Temporary uses allowed under this section shall be consistent with the health, safety and general welfare of persons residing and working in the community, shall be conducted so as not to cause any detrimental effects on surrounding properties and the community, and shall not violate any other ordinance or state and federal regulations.
- B. Application requirements for a temporary use permit.
 - 1. The application and supporting documents for a temporary use permit shall be prepared in accordance with the specifications outlined below.
 - a. Submit a complete Building Permit Application.
 - b. Submit a complete site plan to include the following items:

- (1) The location of all temporary structures proposed property and permanent structures on the property shall be shown on the site plan.
 - (2) The location of any tie downs or guy wires within the property.
 - (3) The internal parking layout to include all driveways within the property.
 - (4) If structures are proposed to be located within a parking lot, include the parking calculations showing that the proposed temporary use will not reduce the minimum required parking for all primary permanent existing uses located on the site.
 - (5) Location of sign(s), screening walls, fencing and electric meter locations or temporary power sources if applicable.
 - (6) The setbacks from property lines shall be shown on the site plan.
2. All temporary use permits are valid for the period & location specified in the permit issued for the temporary use, however for no longer than 6 months within the same calendar year at which time it is deemed expired.
 3. Individual temporary structures as part of the permit shall not exceed a total of 100 square feet in size and shall be accessory to the primary use on the lot.
 4. Applicant shall have the approval of the Plan Review Building Official.
 5. If use is conducted on property that is owned by a separate owner, a notarized letter from the property owner or an authorized agent, granting permission to the applicant to use the property for the temporary use and permission to use any restroom facilities located on the property.
 6. Restroom facilities are required. If restroom facilities are unavailable on the site, a portable facility may be used.
 7. Any tents, membrane structures or canopies used in conjunction with a temporary use permit shall comply with all other provisions of the city code.
 8. Payment of established fee for a temporary use permit.
 9. The site shall be cleaned up and returned to its original state as found by the applicant. Clean up shall begin within a twenty-four (24) hour period after the applicant has stopped using the site for the permitted temporary use.
 10. The use shall not be conducted between the hours of 10:00 p.m. and 8:00 a.m. except where specifically allowed under the permit issued.
 11. Temporary structures shall be setback a minimum of 10 ft. from the front property line and shall not hinder the visibility sight triangle.

C. Temporary Uses Allowed

1. Seasonal Sales of Food Items. Applicant shall obtain the approval of the Director of Public Health. This use is only allowed in a Ranch & Farm or a developed lot located in C-1 to C-5 (Commercial), M-1 (Manufacturing) and GMU General Mixed Use zone districts. This use includes:

- a. Seasonal Sales of Food Items
- b. Farmers Markets
- c. Mobile Structures for Seasonal Sales of Food Items

2. Seasonal Sales of Non-Food Items. This use is only allowed in a developed lot located in C-1 to C-5 (Commercial), M-1 (Manufacturing) and GMU General Mixed Use zone districts. This use includes:

- a. Christmas Tree Lots
- b. Pumpkin Sales Lots
- c. Sales from Mobile Structures
- d. Temporary Mobile Structures
- e. Mobile Structures for Temporary Sales

3. Temporary Places of Assembly. This use is only allowed in a developed lot located in C-1 to C-5 (Commercial), M-1 (Manufacturing) and GMU General Mixed Use zone districts. Applications for Temporary Places of Assembly shall be reviewed by the Fire Marshall. This use includes:

- a. Haunted House
- b. Fair, circus, rodeo, festival, carnival or concert operated at a location other than a stadium, auditorium or other public assembly facility designed to accommodate such an event and if all of the following requirements are met.
 - (1) The property in which the temporary use will operate is at least three acres or more in size.
 - (2) There shall be at least a 1,500 feet buffer zone between the area in which the use will operate, to include required parking, and any residential zoning district or use.
 - (3) The temporary event shall comply with the parking requirements of Appendix C of Title 20.
- c. Bazaar where all conditions are satisfied:
 - (1) Stalls, rooms, stands, booths, carrels, tents and/or other structures intended to facilitate the selling of goods or food, or providing entertainment are temporary, and do not remain in place for duration exceeding seventy-two (72) continuous hours;
 - (2) The property at which the bazaar is located does not allow the selling of goods or food, or providing entertainment more than three (3) times per year; and
 - (3) All activities associated with the selling of goods or food, or providing entertainment at the bazaar have received the appropriate authorization(s), license(s), registration(s), and/or permit(s) from the City of El Paso prior to conducting the activities at the bazaar.
 - (4) Flea market shall at no time be considered a Bazaar.
- d. Temporary use by a fraternal club: A fraternal organization may use their lodge for various temporary fund-raising activities to support charitable or philanthropic works carried out by the organization, to include the rental of the lodge for temporary events, provided that such use is incidental to the primary use of the lodge as a meeting place for the fraternal organization. If the use of the lodge for fund raising activities is more than incidental, then such use shall require a special permit. A special permit may be granted under the following conditions:

- (1) The fraternal organization is a charitable organization under IRS regulations.
- (2) The lodge in which such activities will be conducted is owned and operated by the fraternal organization.
- (3) The lodge is still used by the fraternal organization as a meeting place.
- (4) The temporary uses are for the purpose of conducting fund-raising activities to support charitable or philanthropic works carried out by the organization.
- (5) No activity or event may exceed 72 hours.
- (6) The temporary activities allowed under these provisions are:
 - (a) Social gatherings, such as weddings, quinceañeras, anniversaries, birthday parties.
 - (b) Festivals.
 - (c) Meetings or gatherings of organizations, other than the fraternal organization.
 - (d) Temporary events, such as art shows or exhibits, gun shows, car shows or exhibits.
 - (e) Any other event that is similar to the events described above.
 - (f) Fundraising activities to include the rental of facilities.

4. Temporary Real Estate Offices or Rental Offices. This use requires the placement of a Texas Industrialized building. The use may include a sales/rental office for an approved real estate development or subdivision. The use must be located on the same property as the development or subdivision. The use must be removed after completion or abandonment of the project or after a four (4) year period, whichever is sooner.

5. Temporary Tents, Membrane Structures or Canopies. The applicant must provide proof that the structure is of flame resistant material or is treated with a flame retardant which meets the requirements of NFPA 701. Tents in excess of 200 square feet, or a canopy in excess of 400 square feet will require review and approval from the Fire Department and an operational permit will be required from the Fire Marshall's Office, except that the following temporary uses will not require an operational permit:

- a. Tents used exclusively for recreational camping purposes.
- b. Fabric canopies and awnings open on all sides which comply with all of the following:
 - (1) Individual canopies shall have a maximum size of 700 square Feet (65m²)
 - (2) The aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet (3.7m) shall not exceed 700 square feet (65 m²) total.
 - (3) A minimum clearance of 12 feet (3.7m) to structures and other tents shall be provided.

D. The following temporary uses may be permitted without the issuance of a temporary permit:

1. Temporary structures such as construction sheds, canopies, tents and fences used in construction work in conjunction with a building or grading permit. Such structure shall be allowed for a limited amount of time and shall be completely removed upon the completion of the work authorized by the building or grading permit.

2. Temporary structures such as construction sheds, canopies, tents and fences used in construction work in conjunction with a public works or city, county, state or federal project. Such structure shall be allowed for a limited amount of time and shall be completely removed upon the completion of the work authorized by the building or grading permit.

SECTION 2. Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2012.

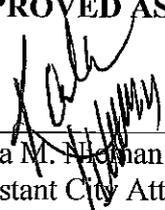
THE CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:



Karla M. Flehman
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Director
City Development Department

ORDINANCE NO. _____

MEMORANDUM

DATE: December 10, 2012

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Arturo Rubio, Senior Planner

SUBJECT: Amendment to Title 20 (Zoning)

The City Plan Commission (CPC), on August 9, 2012, voted 5-0 to recommend **approval** of the amendment to Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.680 (Temporary Uses) with a recommendation that the same standards be applied to Title 21 (Smart Code). The amendment proposes that temporary structures be setback a minimum of 10 ft. from the front property line and shall not hinder the visibility sight triangle as requested by Building Permits and Inspections Division. The request is based on safety concerns and to prevent the impeding of pedestrian circulation along sidewalks. The amendment also proposes to permit temporary uses in the C-5 (Commercial) district as requested by the Downtown Management District.

The CPC found that the Title 20 (Zoning) amendment is in conformance with Plan El Paso. The CPC also determined that the Title 20 (Zoning) amendment protects the best interest, health, safety and welfare of the public in general; and the amendment will have no negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

Attachment:
Redlined Ordinance
Draft Ordinance

Redlined Draft Ordinance with Changes

ORDINANCE NO. _____

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(SUPPLEMENTAL USE REGULATIONS), SECTION 20.10.680 (TEMPORARY USES),
OF THE EL PASO CITY CODE TO AMEND THE APPLICATION PROCESS AND
STANDARDS FOR TEMPORARY USES. THE PENALTY IS AS PROVIDED FOR IN
CHAPTER 20.24 OF THE EL PASO CITY CODE.**

WHEREAS, Title 20 (Zoning) of the El Paso City Code has regulations for temporary use permit application procedures and the categorizing of temporary uses; and,

WHEREAS, a public hearing regarding the proposed amendment was held before the City Plan Commission, and the Commission recommended approval of the amendment; and,

WHEREAS, the El Paso City Council has determined that the addition of temporary use permit application procedures and the categorizing of temporary uses within the City of El Paso is necessary, and is in the best interest of the public and will promote the public health, safety and welfare of the City.

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 - (3) The internal parking layout to include all driveways within the property.
 - (4) If structures are proposed to be located within a parking lot, include the parking calculations showing that the proposed temporary use will not reduce the minimum required parking for all primary permanent existing uses located on the site.
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2. All temporary use permits are valid for the period & location specified in the permit issued for the temporary use, however for no longer than 6 months within the same calendar year at which time it is deemed expired.
 3. Individual temporary structures as part of the permit shall not exceed a total of 100 square feet in size and shall be accessory to the primary use on the lot.
 4. Applicant shall have the approval of the Plan Review Building Official.
 5. If use is conducted on property that is owned by a separate owner, a notarized letter from the property owner or an authorized agent, granting permission to the applicant to use the property for the temporary use and permission to use any restroom facilities located on the property.
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 8. Payment of established fee for a temporary use permit.
 9. The site shall be cleaned up and returned to its original state as found by the applicant. Clean up shall begin within a twenty-four (24) hour period after the applicant has stopped using the site for the permitted temporary use.
 10. The use shall not be conducted between the hours of 10:00 p.m. and 8:00 a.m. except where specifically allowed under the permit issued.
 11. Temporary structures shall be setback a minimum of 10 ft. from the front property line and shall not hinder the visibility sight triangle.

Comment [AIF1]: Add new setback requirement

C. Temporary Uses Allowed

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Comment [AIF2]: Add C-5 as a permissible use zone district

- a. Seasonal Sales of Food Items
- b. Farmers Markets
- c. Mobile Structures for Seasonal Sales of Food Items

2. Seasonal Sales of Non-Food Items. This use is only allowed in a developed lot located in C-1 to C-5 (Commercial), M-1 (Manufacturing) and GMU General Mixed Use zone districts. This use includes:

Comment [AIF3]: Add C-5 as a permissible use zone district

- a. Christmas Tree Lots
- b. Pumpkin Sales Lots
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3. Temporary Places of Assembly. This use is only allowed in a developed lot located in C-1 to C-5 (Commercial), M-1 (Manufacturing) and GMU General Mixed Use zone districts. Applications for Temporary Places of Assembly shall be reviewed by the Fire Marshall. This use includes:

Comment [AIF4]: Add C-5 as a permissible use zone district

- a. Haunted House
- b. Fair, circus, rodeo, festival, carnival or concert operated at a location other than a stadium, auditorium or other public assembly facility designed to accommodate such an event and if all of the following requirements are met.

(1) The property in which the temporary use will operate is at least three acres or more in size.

(2) There shall be at least a 1,500 feet buffer zone between the area in which the use will operate, to include required parking, and any residential zoning district or use.

(3) The temporary event shall comply with the parking requirements of Appendix C of Title 20.

- c. Bazaar where all conditions are satisfied:

(1) Stalls, rooms, stands, booths, carrels, tents and/or other structures intended to facilitate the selling of goods or food, or providing entertainment are temporary, and do not remain in place for duration exceeding seventy-two (72) continuous hours;

(2) The property at which the bazaar is located does not allow the selling of goods or food, or providing entertainment more than three (3) times per year; and

(3) All activities associated with the selling of goods or food, or providing entertainment at the bazaar have received the appropriate authorization(s), license(s), registration(s), and/or permit(s) from the City of El Paso prior to conducting the activities at the bazaar.

(4) Flea market shall at no time be considered a Bazaar.

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2. Temporary structures such as construction sheds, canopies tents and fences used in construction work in conjunction with a public works or city, county, state or federal project. Such structure shall be allowed for a limited amount of time and shall be completely removed upon the completion of the work authorized by the building or grading permit.

SECTION 2. Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
Assistant City Attorney

Mathew S. McElroy, Director
City Development Department

ORDINANCE NO. _____