

## **SECTION 12-600 TEMPORARY USES AND TEMPORARY USE**

### **PERMITS** (Rev. April 21, 2015)

#### **12-601 PURPOSE**

The following regulations are provided to accommodate certain uses of land or buildings that are short term and temporary in nature and are not listed as allowed or permitted uses under a current zoning approval for the property. These temporary uses shall be regulated so as to avoid incompatibility between such uses and surrounding areas. This section is not intended to apply to those temporary structures that are regulated in section 12-500 of this Code.

#### **12-602 TEMPORARY USES ALLOWED**

A Temporary Use Permit may be issued by the Zoning Administrator for the following uses:

- A. Seasonal sales or events including, but not limited to pumpkin sales lots, fruit and vegetable stands, corn mazes, hayrides, haunted houses, and other similar temporary uses not subject to the Temporary Structure regulations in section 12-500.
- B. Circuses and carnivals.
- C. Outdoor entertainment and outdoor assembly events including but not limited to fairs, festivals and concerts.
  - 1. Each property shall be limited to no more than four (4) such events per calendar year, which shall not be held on consecutive weekends, and which shall have a collective duration (duration refers to actual event time exclusive of setup and breakdown) of no more than ten (10) days per calendar year unless otherwise provided in conjunction with an approved Planned Unit Development), Use by Special Review or other development approval, and except as otherwise provided in this Section.
  - 2. The Zoning Administrator may approve additional events and/or additional days for such events within a calendar year if the property for which the Temporary Use Permit is requested has a pending and complete application for a Preliminary Development Plan, Final Development Plan or other applicable land use approval to establish the use approved through the Temporary Use Permit as a permanent use on the property. Additional events and/or days may be approved only during the time frame that the application is pending; however, in no event shall additional events or days be approved for a timeframe that is more than three years after the application was first submitted.
- D. Art, cultural, educational, or other similar exhibits and displays.
- E. Swap meets/flea markets for no more than three (3) consecutive days.
- F. Farmers markets, subject to the requirements of Section 12-2300.

- G. Outdoor sporting or athletic events.
- H. Temporary parking.
- I. Temporary construction staging areas.
- J. Similar temporary uses which, in the opinion of the Zoning Administrator, are compatible with the zone district and surrounding land uses.

**12-603 REQUIRED PERMIT**

- A. A Temporary Use Permit approved by the Zoning Administrator or the Board of County Commissioners shall be required for all uses listed in this Section and shall be issued prior to the commencement of the use.
- B. The issuance of a Temporary Use Permit shall not relieve the applicant of any other license or other regulatory requirement of the County or any other public agency.
- C. In lieu of the Zoning Administrator making a decision on the Temporary Use Permit application, the Zoning Administrator has the discretion to refer any application to the Board of County Commissioners (“Board”) for its consideration and final decision at a public hearing. In such event, the Board shall make its decision based on the requirements of this Section. Compliance with the notice requirements in section 12-607 is required prior to the Board’s public hearing. At such public hearing, the Board may approve, approve with conditions, modify, or deny the application.

**12-604 SPECIFIC REQUIREMENTS**

- A. A Temporary Use Permit shall be valid for a period of time requested and approved in the application but no longer than one year from the date of approval, unless the Zoning Administrator specifies a shorter period of time.
- B. The applicant may apply before the expiration of the original Temporary Use Permit for an extension of such permit. The Zoning Administrator may approve an extension to the original time period granted with the permit as long as the extension does not exceed the time limits stated above. All requests to extend a Temporary Use Permit shall be submitted to the Zoning Administrator a minimum of ten working days prior to the expiration date.
- C. No more than two separate Temporary Use Permits may be approved to operate at the same time for the same property.
- D. Hours of operation shall be limited to daylight hours unless otherwise approved.
- E. Temporary Use Permits may only be approved for properties in the A-1, A-E, A-2, B-1, B-3, B-4, and B-5 Zone Districts, as well as in non-residential areas of a PUD.

## **12-605 APPLICATION REQUIREMENTS**

An application for a Temporary Use Permit shall be submitted to the Zoning Administrator at least sixty (60) days prior to the date of the requested use, unless such time period has been waived by the Zoning Administrator. If the size and scale of a proposed temporary use is such that it would reasonably be anticipated that a review and decision could take longer than sixty (60) days, then it is strongly recommended that the application be submitted at least ninety (90) days prior to the date of the requested use in order to ensure adequate time for review and decision (please consult with the Zoning Administrator if there are any questions as to the appropriate submittal timeframe). An application for a Temporary Use Permit shall be accompanied by a filing fee in an amount established by separate resolution of the Board of County Commissioners and shall include the following information, unless waived by the Zoning Administrator:

- A. A site plan showing the location of the proposed use, structures, setbacks, parking, and other pertinent information in conformance with all applicable zoning requirements.
- B. A written description of the proposed use, including the requested length of permit and hours of operation, the estimated attendance, and the estimated number of employees, vendors, or staff.
- C. A legal description of the lot or property on which the requested use is to be conducted. If the applicant is not the owner of the property, the ownership shall be identified along with evidence of permission of the owner for such temporary use to take place.
- D. A signage plan for the proposed use.
- E. Anticipated noise levels.
- F. Lighting plan.
- G. Traffic control plan and traffic study.
- H. Dust control measures.
- I. Provision of water and sanitation.
- J. Emergency response plan and evacuation plan.
- K. A narrative addressing the approval criteria in Section 12-609.
- L. Such other information as deemed necessary by the Zoning Administrator.

## **12-606 REVIEW PROCESS**

The submittal shall be reviewed for completeness and the applicant notified of any inadequacies. The applicant shall be required to address any issues or deficiencies in connection with application

submittal. If necessary, a meeting will be held to discuss any issues that need to be resolved. If necessary, the applicant will then submit an amended application, plan or other materials, as appropriate, to the County. Once the submittal is determined to be complete, the referral process may begin.

The entire application shall be referred for review to the following:

- A. All adjacent property owners unless the Zoning Administrator has expanded the notification boundary as appropriate to ensure adequate notice;
- B. Arapahoe County Public Works and Development;
- C. Arapahoe County Sheriff's Department;
- D. Tri- County Health Department;
- E. The applicable fire protection district; and
- F. Any other person or entity designated by the Zoning Administrator.

All referral comments shall be sent to the Zoning Administrator within fourteen (14) calendar days of receipt of the referral materials, unless a longer period of time has been specified by the Zoning Administrator.

#### **12-607 PUBLIC NOTICE REQUIREMENTS**

If a Temporary Use Permit application has been referred to the Board of County Commissioners for a final decision, the property shall be posted with a sign at least ten (10) calendar days prior to the scheduled hearing and shall otherwise comply with the posting requirements in Chapter 17 of the Land Development Code. The applicant shall also mail a notice of public hearing to all adjacent property owners no later than ten (10) calendar days prior to the public hearing date. The form of such notice shall otherwise comply with the mail notification requirements of Chapter 17 of the Land Development Code. The Zoning Administrator may expand the notification boundary as appropriate to ensure adequate notice.

#### **12-608 DECISION ON APPLICATION**

A Temporary Use Permit may be approved, modified, conditioned or denied by the Zoning Administrator, or by the Board of County Commissioners (when referred to it by the Zoning Administrator for its final decision).

#### **12-609 APPROVAL CRITERIA**

The Zoning Administrator or Board of County Commissioners may approve a Temporary Use Permit application provided that all of the following criteria, unless deemed inapplicable, have been met:

- A. That the operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- B. That the proposed site is adequate in size and shape to accommodate the temporary use.
- C. The site is suitable for the proposed use, considering any hazards, drainage, environmental constraints and topography.
- D. That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate or otherwise mitigated by a traffic control plan, and that adequate provisions for pedestrian safety have been made.
- E. That adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at acceptable alternate locations.
- F. That the proposed use will not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of the proposed location of the activity.
- G. The proposed use will not have an adverse impact on roads, public services or facilities, unless otherwise mitigated to standards approved by the County.
- H. The proposed use is compatible with the zone district in which the use is proposed.
- I. The proposed temporary use is not of such a nature, duration, size, or scale that it would be better accomplished through a rezoning of the subject property.

**12-610 CONDITIONS OF APPROVAL**

In approving an application for a temporary use permit, the Zoning Administrator or Board of County Commissioners may impose such conditions as are deemed necessary to ensure that the activity will not be detrimental to the general health, safety and welfare, or the existing amenities and quality of the surrounding area. These conditions may involve any pertinent factors affecting the operation of the temporary use, and may include, but are not limited to the following:

- A. Provision of temporary parking facilities and safe and convenient vehicular access.
- B. Regulation of nuisance factors such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gasses and heat.
- C. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- D. Provision of sanitary and medical facilities.

- E. Provision of solid waste collection and disposal.
- F. Provision of a potable water supply.
- G. Provision of security and safety measures.
- H. Regulation of signs.
- I. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested.
- J. Submission of a bond or other form of security to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event, that the property will be restored to its former condition, and that the estimated cost of services provided by County or other governmental entity necessary for a Temporary Use are covered.
- K. Submission of a site plan indicating and detailing all information requested.
- L. Requirement that the approval of the Temporary Use Permit is contingent upon compliance with applicable provisions of any other regulations.
- M. Such other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this Section.

**12-611 REVOCATION.**

Upon ten days' prior written notice to a permittee of the County's intention to revoke a Temporary Use Permit and after a hearing, such permit may be revoked by the Zoning Administrator or the Board of County Commissioners if one or more of the following conditions exist:

- A. Circumstances have been changed by the applicant to such a degree that one or more of the findings of fact contained in the approval can no longer be made in a positive manner.
- B. The Temporary Use Permit was obtained by misrepresentation or fraud.
- C. One or more conditions of the temporary use permit has not been fulfilled or complied with.
- D. That the use is in violation of any statute, ordinance, law, or regulation.

In addition to the above, the Zoning Administrator may revoke a Temporary Use Permit without prior notice and a hearing if a temporary use is conducted in such a manner as to pose an immediate danger to the health, safety, and welfare of the public.