

Section 14 Temporary Uses

14.1 Purpose

The purpose of this Section is to provide standards and a permitting process for non-permanent uses in order to protect public safety and general welfare and to avoid uses which will be detrimental to adjacent properties.

14.2 Application

Note: Temporary outdoor uses should not be confused with permanent outdoor activities, (for example: a car sales lot) which are only allowed in certain zones and require site plan approval, nor should they be confused with an outdoor display area, (for example: a garden center that is part of a building supply store) which may be a part of a retail store and require site plan approval.

City Jurisdiction

Temporary activities occurring on property off of the public rights of way, shall be allowed upon the issuance of a temporary use permit by the Inspections Department, except for residential yard/garage sales which do not require the issuance of a temporary use permit. The provisions of this Section shall not apply to sales occurring within the right of way, but do apply to activities occurring off the public rights of way. Sales occurring within the rights of way may be subject to other ordinance provisions and permits. A fee may be charged for the temporary use permit. The applicant for a temporary use permit shall provide the following information:

1. A description of the proposed use, the proposed beginning and ending dates, and the proposed hours of operation.
2. A description of the property to be used for the temporary use or event, including the location of the use in relation to other buildings, the location of parking, and the location of streets to be used for access. Sufficient information shall be provided to assure that adequate parking is provided, that required parking for other uses remains available, and that sufficient traffic control measures will be in place.
3. Sufficient information to determine that adequate provisions for trash disposal and sanitary facilities shall be provided. When appropriate, information on crowd control shall be required. The Inspections Department may consult with other City or County Departments to determine the suitability of the provisions described in the application.
4. Written permission of the property owner for the temporary use shall be required as part of the application.
5. Additional information as may be required by the Inspections Department in order to protect the public safety.

County Jurisdiction

Temporary activities shall be allowed upon the issuance of a temporary use permit by the Inspections Department. The provisions of this Section shall not apply to street vendors and itinerant merchants, but do apply to activities occurring off public rights- of-way. A fee may be charged for the temporary use permit. The applicant for a temporary use permit shall provide the following information:

1. A description of the proposed use, the proposed beginning and ending dates, and the proposed hours of operation.
2. A description of the property to be used for the temporary use or event, including the location of the use in relation to other buildings, the location of parking, and the location of streets to be used for access. Sufficient information shall be provided to assure that adequate parking is provided, that required parking for other uses remains available, and that sufficient traffic control measures will be in place.
3. Sufficient information to determine that adequate provisions for trash disposal and sanitary facilities shall be provided. When appropriate, information on crowd control shall be required. The Inspections Department may consult with other City or County Departments to determine the suitability of the provisions described in the application.
4. Written permission of the property owner for the temporary use shall be required as part of the application.
5. Additional information as may be required by the Inspections Department in order to protect the public safety.

14.3 Administration

1. After receiving the application, the Inspections Department shall have up to 30 days to review the application.
2. The temporary use permit may be granted by the Inspections Department for a specified period if the Inspections Department determines that the use will not be detrimental to surrounding properties. In granting its approval, the Inspections Department may require additional conditions regarding hours, location, parking, screening, access, safety, or other factors which will protect the health and safety of the public. Appeals of the Inspections Department decision may be made to the Board of Adjustment.
3. All temporary use permits shall be issued on the condition that:

- a. No lighting or electrical service will be provided without an electrical permit.
 - b. No structures will be erected without a building permit.
 - c. The site will be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within 5 days after the use is terminated
4. The Inspections Department may revoke a temporary use permit if it finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.
5. Temporary use permits may be renewed one time, unless other renewal standards are specified in Section 14.4, 14.5, or in other provisions of this Section.

14.4 Supplementary Requirements for Certain Uses

The following temporary uses shall be subject to additional requirements as well as the requirements listed in Section 14.2 above.

1. **Temporary Medical or Veterinary Clinics:** The name, address and telephone number of the principal physician or veterinarian staffing the use or event shall be provided in the application. In addition, the name, address, and telephone number of a local physician or veterinarian providing referral care after the event and a statement of consent from that physician or veterinarian shall be provided.
2. **Carnival or Circus:** Temporary use permits may be issued for circuses for a maximum of 8 days and carnivals for a maximum of 10 days. The application shall depict the locations of pedestrian circulation areas and equipment storage areas. The use shall be located at least 100 feet from any residential property line. Additional City and County regulations may apply to carnivals and circuses.
3. **Construction Projects:** Temporary construction buildings may receive temporary use permits if the buildings are incidental to the construction work and are located on property where construction is taking place. Temporary construction buildings shall not be located on a public street.
4. **Christmas Tree Sales Lots:** Christmas tree sales lots may receive a temporary use permit for up to 60 days. Commercial tree sales lots may be located in zones allowing retail activities. Tree sales lots run by nonprofit organizations may be located in any zone. Proof of nonprofit certification may be required by the Inspections Department.

5. *City Jurisdiction*

Nonresidential Temporary Outdoor Sales Activities: Temporary outdoor sales displays off of the public right of way, may receive a temporary use permit for a period of up to two weeks if the sales activities are incidental to the primary use, the sales activity is conducted by an on-site tenant who sells similar or related merchandise and the display area is located in a commercial zone. The display area may not encroach into a public right-of-way and may not utilize required parking or loading spaces. Outdoor displays of merchandise for nonresidential uses shall only be allowed by being on an approved site plan or by the owner or manager of the primary use holding a valid temporary use permit for the display. A property may be issued only two permits for temporary outdoor sales displays within a calendar year. Temporary sales activities are prohibited on vacant property. Temporary sales from vehicles on a property are prohibited except for uses included under a valid Temporary Use Permit as described in this section. The following uses on commercial property are exempt from these regulations: Mobile food vendors in the CBD zoning district, mobile food vendors intended for job and construction sites, mobile ice cream vendors, the sale of goods as part of a neighborhood fair or other special event which has an approved Temporary Use Permit, and the sale of homegrown produce, Christmas trees, fireworks, or temporary uses regulated elsewhere in this section. All food vendors shall be properly permitted by the Durham County Health Department. Additional provisions of this section may apply to certain temporary uses.

Residential Temporary Outdoor Sales Activities: Limited temporary outdoor sales are allowed in residential zoning districts. Yard/Garage Sales, defined as a public sales at a dwelling at which personal items belonging to the residents of the dwelling are sold, are a permitted use in all residential zones and at all structures which are occupied as a dwelling. Each yard sale event shall be limited to the daylight hours of 2 consecutive days. Yard/garage sales shall be limited to a maximum of 4 per calendar year per property with an interval of at least 3 months between sales.. Observations of more frequent intervals may be considered a violation of this ordinance. Items purchased elsewhere expressly for resale at a yard/garage sale are prohibited . Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day(s) of the sale. Commercial outdoor sales activities are prohibited.

County Jurisdiction

Temporary Sales Activities: Temporary outdoor sales displays may receive a temporary use permit for a period of up to two weeks if the sales activities are incidental to a commercial activity and the display area is located in a commercial zone. The display area may not encroach into a public right-of-way and may not utilize required parking or loading spaces. A property may be issued only two permits for temporary outdoor sales displays within a one year time frame. Each one year time frame shall begin with the issuance of the first permit and shall end 12 months after that date.

6. **Public Events:** Public events of a civic, religious, or non-profit nature may be issued a temporary use permit. Such events shall include, but not be limited to: outdoor concerts, markets, and festivals.
7. **Real Estate Sales Offices and Model Homes:** Temporary real estate sales offices and model homes may be located in a new subdivision. Model homes must meet setback requirements and must first receive a Certificate of Compliance before being opened to the public. A sales office or model home shall not be used as a residence. The office must cease operations upon the expiration of the permit or upon completion of home sales in the subdivision, whichever comes first. A manufactured home may not be used as a sales office.
8. **Demolition Landfills:** Demolition or rubble landfills may be located in nonresidential zones or on residential parcels of 1/2 acre or larger. The site shall conform to all state and federal requirements. In some cases, additional screening may be required to protect the welfare of adjacent property. The applicant for a temporary use permit shall include supplementary information showing a plan for restoration of the site and provide some guarantee of funding to finance the restoration.
9. **Temporary Structures Associated with Public Uses:** Temporary buildings associated with governmental activities may receive temporary use permits if the structures are incidental to a permanent use or building. The temporary structures may not be located in front yard spaces. An all weather surface shall be provided for access. The use may not occupy space designed to meet parking or landscaping requirements. Applications for the temporary use permit shall be filed by the agency desiring to use the structure. The permit shall be valid for not more than 3 years and may be renewed for a period up to an additional 2 years.
10. **Mobile Communication Tower Sites:** Applications shall include the name, address and a telephone number where a person responsible for the tower and antenna can be contacted 24 hours a day. The height shall not exceed 125 feet.
11. **Temporary Transfer Stations:** In the City's jurisdiction, a temporary use permit for a temporary transfer station may be used if the following conditions are satisfied:
 - a. the transfer station handles only waste that can be legally handled or disposed of in a municipal solid waste landfill facility;
 - b. the waste handled at the temporary transfer station was formerly deposited at either a municipal solid waste landfill facility or a transfer station and such facility was located on property adjacent to the property on which the temporary transfer station is located;
 - c. no more than 120% of the waste previously handled by the adjacent facility is handled at the temporary transfer station (in cases where the former facility is no longer operational) or at the temporary transfer station and adjacent facility together (in cases where the adjacent facility is still operational);
 - d. the permit is effective for three years or less and is not renewable;
 - e. the temporary transfer station is located in an I-2 or I-3 zone;
 - f. the "additional requirements" section of the appropriate I-2 or I-3 zoning category are complied with;
 - g. all other Code requirements are complied with, including but not limited to, Section 10, Buffering and Landscaping Requirements;
 - h. State requirements regarding transfer stations are met and the facility operates in conformity with such requirements.

14.5 Manufactured Homes as Temporary Uses

A temporary use permit may be issued by the Inspections Department for a Class A or B Manufactured Home to be used as a temporary use in certain circumstances and a Class A, B, or C Manufactured Home as a temporary use during construction of a new dwelling in the RD district. The manufactured home must be in habitable condition. In seeking the permit, the applicant must meet the requirements of Section 14.2 above. The circumstances which allow the use of a manufactured home as a temporary use are given below:

14.5.1 Fire, Flood, or Natural Disaster

When fire, flood or natural disaster causes an existing building to be rendered uninhabitable, a manufactured home may be used on the site for up to 6 months. The manufactured home shall be located within the rear yard portion of the lot unless site conditions cause this location to be impractical.

14.5.2 Home Construction

During active construction of a new dwelling in the RD zoning district, a manufactured home may be permitted as a temporary dwelling for up to 12 months with the possibility of renewal for up to another 12 months if it can be demonstrated that a valid building permit is in effect and that continual progress is being made toward completion of the permanent dwelling. The manufactured home may be a Class A, B or C manufactured home. A Class C manufactured home may be used as a temporary dwelling only after certification by a Professional Engineer that the home is a safe and habitable dwelling. A manufactured home used as a temporary dwelling shall be located on the same lot for which the new dwelling building permit has been issued. The manufactured home shall be located within the rear yard of the lot unless site conditions cause this location to be impractical.

14.5.3 Security and Management Headquarters

During construction of a nonresidential building or during construction of a residential project of 50 or more units, a temporary use permit may be issued for one manufactured home to be used as a caretaker's residence for security purposes. The manufactured home must be located on the site and maintain required setbacks. Off-street parking shall be provided for the residents. The temporary use permit shall be valid for up to 24 months and may be renewed for a period up to an additional 12 months. The use must be removed from the site when the permit expires or when construction ceases, whichever occurs first.

14.5.4 Custodial Care

The Board of Adjustment may authorize the Inspections Department to issue a Temporary Use Permit for a manufactured home to be located on a lot with an existing single family dwelling. In authorizing such a permit, the Board shall use the procedures for issuance of a minor special use permit, and shall find that all the circumstances identified below have been met. The Board may place conditions on the issuance of the permit to protect the welfare of the neighborhood, and may specify an initial expiration date, and schedule renewals by the Planning Department of the permit following the expiration. If a schedule is not specified, the permit may be renewed an unlimited number of times at 12 month intervals starting from the date of issuance of the original permit by the Inspections Department. Prior to renewal of the permit, the zoning enforcement officer must find that the circumstances listed below still exist and that any conditions that might have been associated with the issuance of the original permit are being met. The circumstances required for issuance of a permit are as follows:

1. The occupants of the manufactured home are related by blood or marriage to the occupants of the single family dwelling or there is a direct custodial relationship between the parties in the single family home and the manufactured home.
2. The manufactured home is located in the rear of the property and the property shall retain all required setbacks specified by the zoning district.
3. Approved water and sewer hook-ups are available for the manufactured home.
4. A doctor's certificate indicating the need for custodial care is required and shall accompany the temporary use permit application.

14.6 Appeals

Appeals of Inspection Department decisions may be made to the Board of Adjustment.