

SECTION 8.11.1 TEMPORARY STRUCTURES/ TEMPORARY USES¹

Temporary structures and/or temporary uses are permitted only as expressly provided in this section. No temporary use or temporary structure shall be established unless a zoning certificate evidencing the compliance of such use with the provisions of this section and other applicable provisions of this Ordinance shall have first been issued, as provided in Section 3.1, *Building Permit Required*.

Exemptions. Temporary Uses located in Temporary Structures that do not exceed 3 days in a 12-month time period and the temporary structure is 800 square feet or less in size will not require a building permit nor a zoning certificate. If the event is to be held at a recognized celebration site for special events, special observances, special functions, special days and the like, the 12-month time separation requirement between events will be waived. Celebration sites include all places of worship, country clubs, hotels, conference centers, bed and breakfast facilities, recognized places of receptions, public parks, etc.

The following are temporary uses, which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.

A. Temporary Tent Sales, Sales Using Non-Permanent/Temporary Structures, and Outdoor Sales/Service Activity

1. The outdoor storage or display of merchandise, or the performance of an outdoor activity (i.e., car wash, auto-detailing service, etc.) shall be exempt from the following requirements if the merchandise is located or the service performed under an approved permanent structure or approved permanent outdoor display area which are designated as such on an approved site plan. The permanent structure or permanent display area shall not occupy required parking spaces, nor interfere with driveway aisles, ingress and egress, sight triangles, required setbacks, or required buffer yards.
2. Temporary tent sales and temporary outdoor sales/service activity shall be permitted only in the C-3 (General Commercial), C-2 (Office/Retail), C-1 (Downtown Commercial), I-1 (Institutional), R-1 (Rural), M-1 (Industrial), M-2 (Industrial), and the GC-2 (Gateway Overlay Corridor Zone) zoning districts.
3. The applicant shall submit a site plan specifying the location of all tents, temporary structures, equipment, and merchandise on display and/or the location of any outdoor service or activity to be performed. The structure, merchandise or activity shall not occupy required parking spaces, nor interfere with driveway aisles, ingress and egress, sight triangles, required setbacks, or required buffer yards.
4. All proposed signs shall be shown on the site plan. Temporary signs, together with any permanent signs on the site, shall conform with all applicable sign regulations as specified in Section IX Sign Regulations.
5. All electrical connections shall be inspected and approved by the Building Inspection Department.
6. All appropriate permits shall be obtained from the building inspector, city engineer, and city planner prior to operation.
7. The Planning Director and/or City Engineer may establish additional requirements as necessary to minimize hazards and promote efficient traffic circulation on the site.

¹ Ordinance #128-97

8. The maximum length of the permit shall be 30 days. A maximum of four (4) permits per calendar year may be authorized, and at least 60 days shall elapse between the expiration of one permit and the approval of another.
9. Before a temporary permit is granted, the owner or agent shall sign a statement stating that the temporary structure, decorative materials and tarpaulins meets the requirements for fire resistance prescribed in NfiPA 701, and that such fire resistance is effective for the period specified by the permit. A certificate of flame resistance, issued by the manufacturer, shall be located on the structure.
Ground within and adjacent to temporary structures shall be cleared of all grass, underbrush or similar fire hazards.

B. Temporary or permanent stands, tents, canopies, etc., erected for the purpose of sale of vegetables, fruits, produce, Christmas Trees, or goods of any kind are prohibited in any residential zoning district [except R-1(Rural District)] unless sales will not exceed 3 days in a 12-month period and the structure is 400 square feet or less in size, in which case, a permit will not be required.

C. Tents for public assembly or for public use, or temporary commercial recreational facilities, such as carnivals and fairs, revivals and special events of public interest shall be permitted in any C-3 (General Commercial), C-2 (Office/Retail), C-1 (Downtown Commercial), I-1 (Institutional), M-1 (Industrial), and M-2 (Industrial) districts for periods not to exceed 30 days in a 12-month period and in accordance with the following:

1. Before a temporary permit is granted, the owner or agent shall sign a statement stating that the temporary structure, decorative materials and tarpaulins meets the requirements for fire resistance prescribed in NfiPA 701, and that such fire resistance is effective for the period specified by the permit. A certificate of flame resistance, issued by the manufacturer, shall be located on the structure.
2. Ground within and adjacent to tents shall be cleared of all grass, underbrush or similar fire hazards.
3. Documentation from the Lee County Health Department must be provided that adequate arrangements for temporary sanitary facilities have been made.
4. All uses shall be confined to the dates specified in the permit.
5. All uses shall observe the minimum setback requirements of the district, except when adjacent to a residential district, when the minimum setback shall be 50 feet.
6. It is recommended that ingress and egress from a street be maintained so as not to impede the normal flow of circulation of traffic. The traffic circulation plan shall be approved by the city engineer in accordance with all applicable codes.
7. Adequate temporary or permanent sanitary facilities shall be provided.
8. All appropriate permits shall be obtained from the building inspector, city engineer, and city planner prior to operation.
9. The Planning Director and/or City Engineer may establish additional requirements as necessary to minimize hazards and promote efficient traffic circulation on the site.
10. Central loudspeakers and amplified noise levels objectionable at the property line shall be prohibited.
11. No permanent or temporary lighting shall be installed without an electrical permit and inspection.

12. Any outdoor lighting shall be installed to preclude the direct illumination of adjacent properties or the creation of glare from the fixtures beyond the property line or on the street.

D. Real Estate sales office

1. Permitted in any district for any new subdivision approved in accordance with the Opelika Subdivision Regulations. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office for the duration of the temporary use zoning certificate.
2. Maximum length of permit shall be one (1) year.
3. Office shall be removed upon completion of the development of the subdivision.

E. Temporary Construction Office

A temporary structure or structures for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period. Temporary buildings related to a subdivision development shall be removed when construction ceases for a period of six consecutive months.

F. Temporary shelter

1. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
2. Required water and sanitary facilities must be provided.
3. Maximum length of permit shall be six (6) months, but the Building Inspection Department may extend the permit for a period or periods not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least 15 days prior to expiration of the original permit. In no case shall the length of the original permit plus all extensions exceed one (1) year.
4. The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence.

G. Temporary Business Uses in Existing Permanent Structures

Provisions authorizing temporary business uses are intended to permit a business for a limited time due to inadequate market supply or zoning provisions. Temporary business uses may be authorized and subject to specific limitations and requirements as established by the Chairman of Planning Commission or his/her designee, Director of Planning, Director of Engineering, and the Chief Building Inspector. The following are requirements for a temporary business license:

1. No temporary business shall conduct business for more than 180 days. A temporary business license is required and shall expire on the 180th day from the date the temporary business license was issued. No extensions shall be granted. No temporary business license shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall be thereafter null and void. A temporary business license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained

above. Any change in the nature or composition of the temporary business from one type of temporary business use to another type of temporary business use shall also render the license null and void. A temporary business license shall be valid only for the exact location specified in the license.

2. If the business owner desires to continue business operations beyond 180 days a permanent business license is required. The business owner must first obtain conditional use approval from the Planning Commission before a permanent business license is granted. Planning Commission approval must be acquired before the 180 days expiration date. If applicable, a bond and letter of credit or equivalent shall be submitted covering costs of all required improvements on the property at the time of Planning Commission review.

The Chairman of the Planning Commission or designee, Director of Planning, Director of Engineering, and the Chief Building Inspector shall use the following criteria to determine if a temporary business permit should be allowed:

1. A temporary business permit may be allowed only in commercial and industrial zoning districts where the proposed use is outright allowed or required to obtain conditional use approval.
2. The business owner must provide a written narrative explaining that the size of existing facilities does not meet the needs of the business or existing facilities are unavailable.
3. The temporary business must be compatible with the surrounding uses and not create an adverse effect on adjacent properties.
4. The temporary business activities and/or display of products must be conducted within an enclosed building.
5. The proposed site is adequately served by streets having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.
6. The proposed site has adequate designated parking and loading/unloading facilities to accommodate traffic generated by the temporary use.
7. The building for the temporary business must meet Opelika Building Codes.

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