

ORDINANCE NO. 2018-18

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 21 OF THE PEORIA CITY CODE, BY AMENDING SECTION 21-322 TEMPORARY USES, OF THE PEORIA CITY CODE; PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on May 3, 2018 to consider proposed amendments to the Peoria City code, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on April 13, 2018; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of May 3, 2018 voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition) and Chapter 21 of the Peoria City Code; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Section 21-322 Temporary Uses, of Chapter 21 of the Peoria City Code (1977 edition):


NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. of Chapter 21 of the Peoria City Code (1977 edition) shall be amended to read as indicated on Exhibit A.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.


SECTION 3. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria,  
Maricopa County, Arizona this 5<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
Cathy Carlat, Mayor


  
\_\_\_\_\_  
Date Signed

ATTEST:

  
\_\_\_\_\_  
Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Vanessa P. Hickman, City Attorney

Published in: Peoria Times  
Publication Date: June 15, 2018  
Effective Date: July 8, 2018

## Exhibit A

### 21-322 Temporary Uses

#### A. Purpose and Applicability

1. In addition to regulating uses which are permanent in nature, it is the intent of Section 21-322 of the Zoning Ordinance, otherwise referred to as the Temporary Uses Section, or Section herein, to accommodate reasonable requests for interim or temporary uses for a limited period of time when such activities are appropriate.
2. The Temporary Use Section authorizes the City to allow short-term land uses if the use does not interfere with surrounding uses, or pose a threat to public health, safety, and welfare. Allowing temporary uses, as provided for herein is not intended to permanently establish or authorize uses otherwise prohibited by the Zoning Ordinance.
3. These regulations are intended to ensure that the temporary use is conducted in a manner to maintain compatibility between the temporary use and surrounding area. Any review or approval by the City is solely intended to address City ordinances and regulations, and is not intended to supersede applicable state or federal regulations.
4. Temporary uses shall be permitted on private property with the issuance of a Temporary Use Permit (TUP) as specified within this Section. Events or activities conducted on City of Peoria owned property, or within public streets or public right-of-way shall obtain a Special Event Permit, which is administered by the City.
5. This Section establishes the procedures, and criteria to be used by the Department when considering an application for a Temporary Use Permit.

#### B. Temporary Use Permit:

##### 1. Temporary Uses Allowed, Permit Required

The Temporary Uses identified below shall obtain a Temporary Use Permit pursuant to the procedures set forth in this Section. Temporary Uses shall mean events such as, but not limited to:

- a. Carnivals, circuses, craft shows, exhibitions, fairs, festivals, home and garden shows, temporary outdoor sales events, or similar special events not otherwise excluded within this Section.
- b. Donation/Recycling Drop-Off Boxes
- c. Outdoor concerts, and paid admission events.
- d. Events held on unimproved surfaces or lots.
- e. Such other uses as the City may deem to be within the Purpose and Applicability of this Section.

##### 2. Temporary Use Permit Exemptions, No Permit Required

All temporary uses identified below are not required to submit an application for a Temporary Use Permit, but are required to comply with Subsection 21-322.C ("General Requirements for All Temporary Uses"). Those events which do not comply with the exemptions provided herein shall obtain a Temporary Use Permit as provided within this Section.

- a. Events utilizing City property, public streets or public right-of-way, provided that the applicant shall coordinate the event with the City as part of the Special Event application process.
- b. Ancillary activities on residential properties, including but not limited to, residential garage or yard sales, open houses, etc.,
- c. HOA events or activities, intended for residents only, located on HOA property,
- d. On-site school events,
- e. Other intermittent activities deemed by the Department to be ancillary to the customary use of the property.
- f. Other uses not defined in 21-322.B.1 which meet all of the following criteria:
  - i. Limited activity area:
    - 1. An activity area, which is limited to the following size requirements and summarized within the Table below:
      - a. Four thousand (4,000) square feet or less on a site or center that is greater than one (1) acre, but less than five (5) acres in size, or
      - b. Ten thousand (10,000) square feet or less on a site or center that is greater than or equal to five (5) acres in size.

Minimum Site or Center Size	Maximum Exemption Area
≤ 1 acre	No Exemption
> 1 & < 5 acres	≤4,000 square feet
≥ 5 acres	≤10,000 square feet

- 2. For the purposes of this Section, an activity area means the area housing the proposed use and any associated storage. The activity area does not take in to account patron parking for the purposes of tabulating the square foot allowances identified above.
- 3. An improved surface without blocking primary drive aisles or site and building general or emergency access.
  - a. For the purposes of this Section, an improved site means a site with paved access to the grounds, including curb-cuts as necessary to access public rights-of-way, and paved or dust-proof surfaces for the area occupied by the subject temporary use and associated parking.
- ii. Uses which do not operate between the hours of 10:00 p.m. and 7:00 a.m., and do not occur for more than two (2) days within a thirty (30) day period, per site.
- iii. Uses which are located at least two hundred (200) feet away from a residential structure.
- iv. Uses which provide for all necessary pedestrian and vehicular queuing to occur outside of the right-of-way and outside of any primary or emergency drive aisles.

- v. Events occurring within a designated Entertainment District. Such Entertainment Districts may be adopted by resolution from time to time by the City Council in accordance with A.R.S §4-207.
  - 1. All boundaries of the temporary use must remain at least 200 feet away from Grand Avenue right-of-way.
  - 2. There is no limit on activity area size to qualify as an exempt temporary use when the use is located within a designated Entertainment District.
- C. General Requirements for all Temporary Uses. All temporary uses shall meet the following general requirements, unless otherwise specified in the Temporary Uses Section:
  - 1. Structures utilized for the Temporary Uses of outdoor sales and/or displays that exceed seven (7) days in duration shall be limited only to the following: tents, canopies, and/or membrane structures.
  - 2. Permanent alterations to the site are prohibited.
  - 3. All temporary signs associated with the temporary use shall comply with Section 21-827 of the City Code, and all associated signs shall be removed upon completion of the activity.
  - 4. The temporary use standards of this Section do not exempt the applicant or operator from any other required permits, such as health department permits.
  - 5. If the property is undeveloped, it shall contain sufficient land area to support the temporary use, including but not limited to, adequate parking and traffic movement to support the event.
  - 6. Tent and or generator permits shall be required for all uses in accordance with the applicable Fire or Building code, regardless of any Temporary Use Permit Exemptions identified within Subsection 21-322.B.
  - 7. All uses shall comply with adopted City noise ordinances contained within the City Code.
  - 8. All Temporary Uses shall prevent activity across improved landscape areas that would negatively impact the landscaped areas.
- D. Application Requirements. An application for a Temporary Use Permit:
  - 1. Must be submitted at least thirty (30) calendar days prior to the proposed commencement of the temporary use. Application made within 30 days of the start date of the event will not be accepted;
  - 2. Must include all information required in the official process guide and application packet for Temporary Uses made available by the Department. The Planning Manager or designee may require additional information as necessary, based on the nature of the proposed temporary use.
  - 3. Each occurrence of a non-exempt Temporary Use as defined within section 21-322.B shall require a separate submittal and approval of a Temporary Use Permit Application.
- E. Posting
  - 1. Temporary uses that will operate after 10:00pm or before 7:00am shall require notice to be posted on site. The notice shall contain the date, time, duration, location and brief description of the event. Notice shall be posted by the City within five (5) City business days.

F. Approval Criteria

1. Review of the Temporary Use Permit application requires reviews and approval from the Department in addition to other City Departments (e.g. Fire, Police, Building Division, etc.).
2. Approval of the Temporary Use Permit shall be given only when in the judgment of the City such approval is consistent with the intent and purpose of this section of this Ordinance, and it is determined that the use is compatible with nearby uses and will not:
  - a. Impair the normal, safe, and effective operation of a permanent use on the same site;
  - b. Create an traffic hazard or congestion;
  - c. Adversely affect public health, safety, welfare, or convenience; or
  - d. Interfere with the normal conduct of uses and activities in the vicinity.
3. The Department shall notify the applicant, in writing, of the decision to approve or deny the application, and shall state any conditions for approval or reasons for denial in said letter.

G. Conditions of Approval. The Department may issue conditions of approval of a Temporary Use Permit as needed to make the determinations required in compliance with Section 21-833.E Approval Criteria. These conditions of approval may be required to minimize effects on nearby uses, and may include, but not be limited to, standards for hours of operation, frequency of use, parking, traffic circulation, screening of use from off-site, and site restoration.

H. Restoration and Cleanup. A person engaging in a temporary use allowed in compliance with this Section shall remove all debris, litter, and other evidence of use from the site within 72 hours of cessation of the use or expiration of the permit, whichever occurs first. At such time, the site shall be restored to the same condition it was prior to commencement of the temporary use.

I. Permit Duration, Renewal and Revocation. All Temporary Use Permit approvals shall be subject to a time limit as set forth below:

1. Temporary Use Permits for off-site construction yards or residential sales trailers may be permitted for the duration of the project, or as determined by the City.
2. Temporary Use Permits for Donation/Recycling Drop-Off Boxes may be permitted for a renewable duration not to exceed twelve (12) months, or as determined by the City. Each renewal requires a new Temporary Use Permit application and fee.
3. All other Temporary Use Permits shall be limited to a maximum of thirty (30) consecutive days per event, and the cumulative total of all Temporary Uses shall not exceed ninety (90) days per calendar year per lot. Not more than twelve (12) Temporary Use Permits shall be granted per lot or complex per calendar year.
4. The Department may revoke a Temporary Use Permit at any time, if the use no longer satisfies the criteria required in compliance with Section 21-322 or poses a threat to public health, safety, and welfare.

J. Appeal of Decision. Upon receiving notification of the Department's decision to approve or deny the application for a Temporary Use Permit, the applicant or any party of interest aggrieved by the decision may file an appeal to the Board of Adjustment pursuant to Section 21-323.I.