

## **10-1-12: PROVISIONS APPLYING TO MISCELLANEOUS AND TEMPORARY AND TRANSIENT USES:**

All miscellaneous and temporary uses as identified in this section shall be subject to the terms, regulations and conditions of this section as set forth hereafter. It shall be unlawful for any person or party to establish, maintain, operate or have a temporary use on property in the city of Nampa except in accordance and compliance with the following regulations:

- A. Regulations of Certain Temporary Uses: Regulations governing establishment and operation of certain temporary uses in the city of Nampa according to their respective categorizations/definitions in section 10-1-2 of this chapter are and shall be as follows: (Ord. 4159, 1-20-2015)

1. Transient Merchants as Temporary Uses:

- a. Locations Allowed: Transient merchants are and shall be prohibited from locating on properties not commercially zoned and/or in any of the following locations:
  - (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
- b. Duration, Frequency and Hourly Time Limits: Time allotted to/for transient merchant operation(s) shall be as follows:
  - (1) Shall not be allowed to locate on any given lot or parcel for longer than nine (9) calendar days in any given calendar year; and
  - (2) Shall only operate between the hours of six o'clock (6:00) A.M. and twelve o'clock (12:00) midnight from an approved location; and
  - (3) An eligible lot/parcel may only host one transient merchant one time per, and in, any given calendar year. (This does not and shall not prevent a lot/parcel from being host to an approved seasonal temporary use in accordance with the regulations/allowances established in this section for such types of temporary uses.)
- c. Land Use Regulations Governing Use and Operation Thereof:
  - (1) No more than one transient merchant use may or shall be established/allowed and operated from any given eligible lot/parcel at a time. It shall be illegal for more than one transient merchant to locate on an eligible lot/parcel at the same time; and
  - (2) Placement of a structure(s), merchandise, and/or vehicles related to/part of a transient merchant use or operation, within a required setback shall be prohibited unless specifically approved in writing by the director or his/her designee on a case by case basis where no peril to health, safety or public welfare is foreseen or expected in connection with allowing setback intrusion; and

- (3) Notwithstanding the foregoing, no structure(s), merchandise, or vehicle(s) related to/part of a transient merchant use or operation shall be allowed to be placed or parked in a required vision triangle, in or blocking an area of a service drive required to permit legal ingress into or egress from a lot/parcel, over or blocking an ADA parking space, over or blocking a public sidewalk, blocking access to a trash dumpster, too close to a fire hydrant, adjacent a section of curb painted and designated as reserved for fire department use, in a position to obscure a city traffic regulation sign, in or overhanging a public right of way, or in or overhanging a public easement. (Ord. 3960, 4-4-2011)
2. Mobile Food Vendors (e.g., "Taco Trucks, Lunch Wagons, BBQ Grills/Ranges On Trailers, Vendor Carts, Etc.") As Temporary Uses:
  - a. Locations Allowed: Mobile food vendors are and shall be prohibited from locating on properties not commercially zoned or zoned DB, DV, DH, or industrially zoned and/or in any of the following locations:
    - (1) At any location where the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
  - b. Duration and Hourly Time Limits: Mobile food vendors' approved hours of operation shall be as follows:
    - (1) Neither vehicles, as defined by this title, nor vendor carts shall be used/set up as permanent (or effectually permanent) diners, eateries, restaurants, etc., nor feature outdoor facilities for dining purposes in any location in the city. Outdoor "eateries" or facilities are considered to be any business using seating, tables or some kind and/or some form of shelter (e.g., umbrellas, tents, canopy) to provide a place to sit and eat out of doors. It shall be illegal to do otherwise; correspondingly;
    - (2) Mobile food vendors shall not be or stay parked overnight (12:00 midnight to 6:00 A.M.) in any of those locations where they may legally sell food products (subsection A2a of this section); and
    - (3) Mobile food vendors shall obtain a temporary use permit every one hundred eighty (180) days in order to lawfully sell food or other consumable commodities within the city.
  - c. Land Use Regulations Governing Use and Operation Thereof:
    - (1) Mobile food vendor vehicles or vendor carts are and shall not be allowed to be placed or parked in a required vision triangle, in or blocking an area of a service drive required to permit legal ingress into or egress from a lot/parcel, over or blocking an ADA parking space, over or blocking a public sidewalk, blocking access to a trash dumpster, too close to a fire hydrant, adjacent to a section of curb painted and designated as reserved for fire department use, or in a position that obscures a city traffic regulation sign. Furthermore, mobile food vendor vehicles shall not be allowed to be placed or parked in or overhanging a public right of way, or in or overhanging a public easement; and

- (2) Mobile food vendors are required to have a temporary use permit in order to lawfully operate within the city of Nampa (refer to subsection A2b (3) of this section); and
- (3) A current and valid copy of the Southwest district health (SWDH) department permit shall be submitted in conjunction with any application for a temporary use permit and must be maintained and displayed on or in the vendor's vehicle in plain public view when open for business; and
- (4) Vendor carts shall also require a right of way permit to sanction their use if/when they are proposed to be or are operated/stationed in/on public right of way (e.g., on a sidewalk). (Ord. 4010, 3-19-2012)

3. Seasonal/Holiday Sales as Temporary Uses:

- a. Locations Allowed: Seasonal/holiday vendors are and shall be prohibited from locating on properties not commercially or industrially zoned and/or in any of the following locations:
  - (1) Location: In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
  - (2) Additional Restrictions for Fireworks Stands: Placement of fireworks stands shall also be required to be in accordance with regulations listed in title 5, chapter 11 of this code. (Note that other restrictions respecting such stands are also provided in that chapter.)
- b. Duration and Hourly Time Limits: Seasonal/holiday temporary merchandise sales/uses shall be allowed four (4) times per calendar year, once in each quarter of the year (and in addition to any other transient merchant sales allowed on the same property during the year), on lots/parcels in the city according to the following schedule(s):
  - (1) Fireworks stands shall not be erected before June 24 nor remain up after July 5 to sell for the 4th Of July holiday nor shall they be erected before December 27 or remain up after January 1 for the New Year holiday and they shall not be allowed to sell merchandise until twelve o'clock (12:00) midnight June 24 through twelve o'clock (12:00) midnight July 5 for the 4th Of July holiday nor shall they be allowed to sell merchandise for the New Year holiday until twelve o'clock (12:00) midnight December 26 through twelve o'clock (12:00) midnight January 1 (sections 5-11-4 and 5-11-5 of this code).
  - (2) Christmas tree lots shall not be established before November 15 and sales shall shut down operation by no later than twelve o'clock (12:00) midnight while such lots are in operation.
  - (3) Pumpkin sales lots shall not be established before October 1 and sales shall shut down operation by no later than twelve o'clock (12:00) midnight while such lots are in operation.
  - (4) Valentine's Day and Mother's Day sales shall not be established more than seven (7) days and not left in place and/or operation more than three (3) days after those

respective holidays. Sales shall shut down operation by no later than twelve o'clock (12:00) midnight.

c. Land Use Regulations Governing Use and Operation Thereof:

- (1) Land use regulations governing use and operation of seasonal uses shall be the same as per other temporary uses as regulated in this section except that fireworks stands shall also be governed by those regulations contained in title 5, chapter 11 of this code pertaining to their placement, operation and maintenance; and
- (2) For fireworks stands, an additional permit from the Nampa fire department is required to be obtained first in order to apply for a temporary use permit in order to lawfully emplace/operate a stand; and
- (3) Lighting for outdoor seasonal sales shall be oriented so as to not illuminate nearby residential areas where at all possible.

4. Off Site Vehicle Sales Events as Temporary Uses:

- a. Locations Allowed: Off-site vehicle sales events are and shall be prohibited from locating on properties not GB1 or BC zoned, or that are not municipal properties (e.g., the Idaho Center, civic center, public parks, etc.) and/or in any of the following locations:
  - (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised; and
- b. Duration and Hourly Time Limits: Off-site sales events shall be limited to a five (5) day duration and shall not be conducted past eleven o'clock (11:00) P.M. in the evening nor earlier than seven o'clock (7:00) A.M. in the morning. An eligible lot/parcel may only host one off site sales event one time per, and in, any given calendar year. (This does not and shall not prevent a lot/parcel from being host to an approved seasonal temporary use in accordance with the regulations/allowances established in this section for such types of temporary uses. It shall be illegal for the owner of an eligible lot/parcel to allow any transient merchant to establish themselves on said lot more than once per calendar year.)
- c. Land Use Regulations Governing Use and Operation Thereof: Off-site sales events shall be allowed signage in accordance with subsection 10-23-18Q and section 10-23-19 of this title notwithstanding the temporary use signage provisions stated elsewhere in this section. (Ord. 3960, 4-4-2011)

5. Job, Hiring and Contractor Trailers/Shacks as Temporary Uses:

- a. Locations Allowed: On job sites including one per single-family subdivision, on multi-family, commercial, university, gateway, or industrially zoned construction sites.
- b. Duration and Hourly Time Limits: Job, hiring and contractor trailers/shacks may be in use for a period of time as requested by the applicant and agreed to by the director or his/her designee but not to exceed a period of three hundred sixty-five (365) calendar days unless

an extension to that time frame is granted by the city. Up to two (2) one-year extensions may be granted. (Complaints regarding the operation of the use from neighbors shall serve as grounds to deny requests for extensions.)

c. Land Use Regulations Governing Use and Operation Thereof:

- (1) Shall only be those mobile units designated as "commercial coaches" which bear the label of the state of Idaho division of public safety. This label shall designate the unit's approval number, occupancy group classification and construction type as specified in the international building code (IBC); and
- (2) Shall only be placed on a property for which a building permit has been issued against the same and an erosion control permit approved and issued against/on the same property; and
- (3) Shall only be accessed by employees, potential employees, customers, contractors, subcontractors, inspectors, builders, or developers working directly with/on construction of site improvements being made on the property where on the job, hiring and contractor trailer/shack is placed. (Ord. 4010, 3-19-2012)

6. Subdivision Homes Sales Offices as Temporary Uses: Sales offices shall be either commercial ADA accessible coaches/trailers, or, homes converted wholly or in part of office use. Homes so utilized shall maintain their original appearance and shall be converted back into sellable residences when no longer in use as sales office space.

a. Locations Allowed:

- (1) Shall only be located on a lot or lots in a residential subdivision to which they appertain assuming that said subdivision's covenants, conditions and restrictions (CC&Rs) do not disallow them.

b. Duration and Hourly Time Limits:

- (1) Shall be operated from/in a (future) house intended to be used for a period of one year or less unless an extension is granted by the director or his/her designee based on current market conditions. Up to two (2) one-year extensions may be granted.

c. Land Use Regulations Governing Use and Operation Thereof:

- (1) Shall be exclusive to the subdivision within which they are located, excepting however in those instances where the broker, contractor and developer are the same company. They may, in such instances, serve as a temporary office for the broker/contractor/developer (but still must be removed/converted back into a home when the subdivision is finished); and
- (2) Shall serve for execution of real estate business only and not for other commercial or retail transactions or uses including builders' or contractors' offices save in instances referenced in subsection A6a (1) of this section; and
- (3) Shall provide/have two (2) legal onsite parking spaces; and

- (4) Shall, in addition to the signage allowances prescribed by this section, be entitled to have one freestanding sign no larger than thirty-two (32) square feet in area; and
- (5) Shall not have outdoor display or storage of building materials or fixtures unless the same is intended to allow for equipment and material that are ancillary to the development under construction (which may be 1 building lot/parcel up through a multiphased development with various lots encompassed therein). In such cases where storage is present, then it shall not be allowed in front of the sales office or trailer relative to the street and shall be otherwise screened from view of the street and shall not be composed of garbage, refuse, junk or salvaged materials. (Ord. 3960, 4-4-2011)

7. Fruit/Vegetable Vehicle Sales or Stands as Temporary Uses:

- a. Locations Allowed: Fruit/vegetable stands/tents are and shall be prohibited from locating on properties not commercially zoned, zoned residential professional, and/or in any of the following locations: (Ord. 4159, 1-20-2015)
  - (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
- b. Duration and Hourly Time Limits: Shall be allowed for a maximum duration of ninety-two (92) days on any given lot/parcel.
- c. Land Use Regulations Governing Use and Operation Thereof:
  - (1) An eligible lot/parcel may only host one fruit/vegetable stand one time per, and in, any given calendar year. (This does not and shall not prevent a lot/parcel from being host to an approved seasonal temporary use in accordance with the regulations/allowances established in this section for such types of temporary uses.)

8. Temporary Outdoor Amusements: Such temporary uses include, but are not limited to, circuses, carnivals, petting zoos and similar amusements:

- a. Locations Allowed: Outdoor amusements are and shall be prohibited from locating on properties not zoned IL, AG, BC, DB, DV or DH and/or in any of the following locations:
  - (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
- b. Duration and Hourly Time Limits: Temporary outdoor amusements shall be allowed for a period not exceeding fourteen (14) days unless Christmas or Thanksgiving or Independence Day season related and advertised, in which case they may occupy a lot/parcel for up to ninety (90) days if approved by the director or his/her designee;
- c. Land Use Regulations Governing Use and Operation Thereof:

- (1) Such facilities, if proposing to use a commercial power source or Idaho Power lines shall require electrical permits from the city as appropriate; and
  - (2) In the event that such uses are proposed to be operated from property that lacks cement or asphalt surfacing for the parking of vehicles by persons working at, using or attending the amusement, then the owner of the property or of the amusement shall be required to provide dust control to the satisfaction of the city prior to the use commencing operation; and
  - (3) No parking areas, booths, rides, corrals or other structures shall be placed in a clear vision triangle, required setback area, over an easement or in public right of way nor positioned so as to cover or block required ADA accessible parking spaces or their loading/unloading areas, or so as to interfere with fire lanes or access to fire hydrants; and
  - (4) Signage for such facilities shall be limited to two (2) portable signs (1 per street frontage), no larger than thirty-two (32) square feet each frontage adjacent to the use's position on a property and to that signage attached or painted on rides, corrals, booths or other accessory structures which are already an integral part of the amusement facility(ies)/fixtures; and
  - (5) Lighting for outdoor seasonal sales shall be oriented so as to not illuminate nearby residential areas where at all possible.
9. Storage/Overflow Containers (Including, But Not Limited to, Pods, Intermodal Containers, Trailer Boxes, Cans/Milvans, And Large Containers of Like Type/Form/Construction/Material(s)/Function) As Temporary Uses:
- a. Locations Allowed:
    - (1) Shall not be located in "front" (as defined by this title) of a/the principal structure(s) on the property on which the storage/overflow containers are emplaced unless it is demonstrated to the satisfaction of the director or his/her designee that there is no other suitable location on the property to temporarily position the container or the container is being used in conjunction with moving into or out of a dwelling unit (see subsection A9b(1) of this section); and
    - (2) Shall not be allowed to be placed on any paved street unless: parking is allowed along that street already by code, and the container projects from the closest curb line of the street no farther than nine feet (9') into the street, and the container is properly identified with reflectors and/or other safety device; and a general right of way permit is first applied for and approved by the city engineering division; and
    - (3) Shall not be located over or blocking a city sidewalk; and
    - (4) Shall not be positioned so as to be in or blocking an alley or on or blocking a service/common/shared drive.
  - b. Duration and Hourly Time Limits:

- (1) Storage/overflow containers when used in conjunction with moving into or out of a permanent structure (e.g., a house), shall be limited to being used on or adjoining a site for seven (7) days. No temporary use permit fee shall be required for containers used in this fashion;
- (2) Storage/overflow containers when used for/in a residentially used property shall be limited to providing emergency storage for thirty (30) days one time in a calendar year;
- (3) Storage/overflow containers, when used as a temporary storage/overflow container for/in a commercially or industrially used property (e.g., when used by a store to keep extra merchandise during a national holiday), shall be kept at the site for no more than thirty (30) days at a time, two (2) times per calendar year;
- (4) Storage/overflow containers, when proposed for more than thirty (30) consecutive days on any nonresidential lot/parcel, shall require approval via a building permit. (This requirement shall not pertain to those lawfully approved businesses that keep/maintain containers on their property(ies) for the purpose of renting, selling, transferring, or shipping the container(s) as the principal/primary function of their business.)

c. Land Use Regulations Governing Use and Operation Thereof:

- (1) Storage/overflow containers shall not cover "code required" parking spaces/stalls including and especially ADA accessible parking spaces or their associated loading/unloading areas; and
- (2) Storage/overflow containers shall not be allowed in required setback/yard areas as established by the land use zone in which they are located or proposed to be located; and
- (3) Storage/overflow containers shall not be placed in or over any established/recorded easements; and
- (4) Storage/overflow containers shall not be stacked one on top of another; and
- (5) Storage/overflow containers shall not be used as welding, vehicle body repair, customization or paint shops/facilities/booths (or, in any event, for conducting of those activities); and
- (6) Storage/overflow containers, when intended to be made into permanent facilities, shall be screened from public view via a sight/site obscuring fence placed around the entire perimeter of the container(s). Such screening shall receive design approval from the director or his/her designee prior to being installed; and
- (7) Storage/overflow containers, when intended to be made into permanent facilities, shall comply with all city building department requirements pertaining to them; and
- (8) Storage/overflow containers shall not have commercial advertising signs affixed/attached to them or painted on them notwithstanding signage allowances stated in this section or in chapter 23 of this title. Storage/overflow containers shall not be used as a sign or equivalent advertising device. This regulation shall not apply to plaques or painted signs that only advertise the storage/overflow container's owner; and



- (9) Storage/overflow containers shall not be allowed to be used as accessory structures on any residentially zoned lot/parcel.

10. Concrete Batch Plant, Asphalt Plant, Stone Crushing And/Or Processing Operations As Temporary Uses: Temporary batch plants and material processing operations located on site for approved construction projects may be allowed with a temporary use permit as follows:

a. Locations Allowed:

- (1) Concrete batch plant, asphalt plant, stone crushing and/or processing are and shall be prohibited from locating on properties not zoned BC, BF, IH, IL or AG.
- (2) Such uses may not be allowed within one-fourth ( $\frac{1}{4}$ ) mile of a residentially platted subdivision; whether city or county.

b. Duration and Hourly Time Limits: Such facilities shall be permitted only for the period of construction activity for the singular project for which they were intended to supply material except, in no case, shall they be allowed to remain on a property longer than two hundred seventy (270) days. Only by issuance of an extension by the planning and zoning commission may they remain longer. The commission may approve up to an additional one hundred eighty (180) day extension.

c. Land Use Regulations Governing Use And Operation Thereof:

- (1) Prior to the establishment of the use, photos of the site shall be submitted in conjunction with application for a temporary use permit; and
- (2) Primary routing to/from as well as ingress/egress to/from the site shall be over/along/from a collector or arterial roadway unless deemed by the director or his/her designee to be unreasonable because of site location, access constraints including topography, or interference with safe traffic flow to/from the streets from off the nearest collector or arterial roadways; and
- (3) Such facilities shall only be allowed in association with a construction project which itself is located, or to be located, in the city of Nampa. Upon completion of construction activity(ies) related to any particular facility, the concrete batch plant, asphalt plant, stone crushing and/or processing operation shall be terminated and the site whereon it operated shall be restored to a city acceptable degree of predevelopment condition; and
- (4) Prevention of any dust, fumes, vapors, mists or gas nuisances due to operations shall be maintained at all times in accordance with established city and EPA nuisance control and abatement standards.

11. Temporary Residences as Temporary Uses:

a. Locations Allowed:

- (1) Temporary residences used as pre-"move on" homes shall be allowed on legal building lots/parcels located in zones wherein a single-family house is allowed by right according to section 10-3-2 of this title; and

(2) Temporary residences used for the care and keeping of an immediate family member for healthcare/caregiving purposes shall be allowed on legal building lots/parcels located in zones wherein a single-family house is allowed by right according to section 10-3-2 of this title; and

(3) Use of a temporary residence for other than the above two (2) stated purposes shall not be allowed.

b. Duration and Hourly Time Limits:

(1) Temporary residences used as pre-"move on" homes shall be allowed for a maximum period of three hundred sixty-five (365) calendar days from the date of approval. One 180-day extension may be sought and approved for such uses.

(2) Temporary residences used for/as caregiving domiciles shall be removed once the family member being cared for either moves out or passes away.

c. Land Use Regulations Governing Use and Operation Thereof:

(1) Emplacement: In placing any temporary residence, required setbacks shall be complied with, height regulations of the zone wherein the structure is intended to be placed shall be complied with, minimum structure separation and adequate fire protection shall be maintained, any utility service provided shall require installation or hookup approval in accordance with city adopted codes.

(2) Temporary Residences:

(A) Type of Structure(s) Allowed: Temporary residences shall either be a mobile or manufactured home structure. It shall be illegal to use any form of mobile vehicle (e.g., RVs or buses) as, or for, a temporary residence; and

(B) Permit Required: Temporary residences used for/as caregiving domiciles shall also require a conditional use permit to commence operating; and

(C) Separate Address Prohibited: Temporary residences used for/as caregiving domiciles shall not have separate addresses; and

(D) Parking Spaces: Temporary residences used for/as caregiving domiciles may have two (2) additional paved parking spaces provided that said spaces are legally placed, be allowed provided that any right of way permit application required for new or modified site access is submitted and then approved by the city and any necessary right of way permit is also obtained from the city engineering division (in the case of work done to curb, drive approaches, sidewalks, etc.); and

(E) Additional Requirements: Any conditional use permit issued for temporary caregiving residences shall require recording by the city of a document denoting the requirement that the caregiving unit be removed from the property for which it was approved once the family member residing therein moves or passes away.

12. Temporary Animal Pens, Kennels, Enclosures, Runs, Etc. :

- a. Locations Allowed: Temporary animal pens, kennels, enclosures, runs, etc., shall be allowed in residential (R) zones wherever detached accessory structures are allowed by right according to section 10-3-2 of this title or on property zoned AG.
- b. Duration and Hourly Time Limits: Not applicable.
- c. Land Use Regulations Governing Use and Operation Thereof: Temporary animal pens, kennels, runs, etc., shall be allowed and be treated as accessory structures as far as required setbacks, maximum sizes and maximum heights allowable are concerned excepting that no such structure shall be maintained closer than forty feet (40') to any apartment house, condominium, hotel, restaurant, boarding house, retail food store, or building used for school, worship or hospital services, or other similar use determined by the director or his/her designee. (Subsections 10-1-8C1 through C5 of this chapter contain regulations regarding electric or barbed wire fencing solely used to contain animals.)

13. Temporary Placement of RVs And Similar Vehicles:

- a. Locations Allowed: Placement of RVs in mobile home parks as a substitute for a mobile or manufactured home is and shall be prohibited.

14. Drop Off Recycling Collection Containers and/or Sites: (The containers herein noted are those types which are equivalent in nature and size to regular trash dumpster and not the small recycling boxes left or collected curbside.)

- a. Locations Allowed: Temporary recycling containers are and shall not be allowed to be placed or parked in a required vision triangle, in or blocking an area of a service drive required to permit legal ingress into or egress from a lot/parcel, over or blocking an ADA parking space, over or blocking a public sidewalk, blocking access to a trash dumpster, too close to a fire hydrant, adjacent a section of curb painted and designated as reserved for fire department use, in a position to obscure a city traffic regulation sign, in or overhanging a public right of way, or in or overhanging a public easement. Any violations of the foregoing prohibition(s) are and shall be deemed illegal.
- b. Duration and Hourly Time Limits: Not applicable.
- c. Land Use Regulations Governing Use and Operation Thereof:
  - (1) Containers shall be kept in a good state of repair; and
  - (2) Containers shall be emptied on a regular basis to prevent overflow; and
  - (3) Containers shall be clearly marked/labeled as to the materials therein able to be deposited.

15. Temporary Gravel Parking Lots:

- a. Locations Allowed: Shall be allowed in AG, BC, IL, IH zones only.
- b. Duration and Hourly Time Limits: Shall be allowed on a property for a period not to exceed three hundred sixty-five (365) consecutive calendar days.

c. Land Use Regulations Governing Use and Operation Thereof:

- (1) In addition to the submittal requirements associated with application for a temporary use permit, the following additional issues shall be addressed in a written narrative to be provided at time of application:

(A) Shall be provided with wheel stops/bumper blocks at the head end of any automobile parking spaces; and

(B) Shall provide for any required ADA parking space and loading/unloading area to be paved (either asphalt or concrete) as well as provide a paved access route to link the ADA space's loading/unloading area to a building's main entrance and/or the public right of way; and

(C) Shall comply with regulations/standards in subsection 10-22-5D of this title; and

(D) Shall require city council approval.

16. Coffee/Snow Cone/Smoothie Shacks and Similar Facilities:

- a. Locations Allowed: Coffee/snow cone/smoothie shacks and similar facilities are and shall be prohibited from locating on properties not commercially or industrially zoned and/or in any of the following locations:

- (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be located.

- b. Duration and Hourly Time Limits: Coffee/snow cone/smoothie shacks and similar facilities approved hours of operation shall be as follows:

- (1) Coffee/snow cone/smoothie shacks and similar facilities shall be allowed to remain a maximum of one hundred eighty (180) days in any calendar year on any given lot/parcel; and

- (2) Coffee/snow cone/smoothie shacks and similar facilities shall only operate between daytime business hours (6:01 A.M. to 11:59 P.M.); and

- (3) Coffee/snow cone/smoothie shacks and similar facilities, as defined by this title, shall not be used as permanent (or effectually permanent) diners, eateries, restaurants, etc., in any location in the city unless site improvements are emplaced around and pertinent to the same equivalent to what other permanent uses in the city establish when newly built or "redeveloped" as regulated in section 10-1-6 of this chapter. It shall be illegal to do otherwise; and

- (4) Coffee/snow cone/smoothie shacks and similar facilities shall obtain a temporary use permit in order to lawfully sell food or other consumable commodities within the city.

c. Land Use Regulations Governing Use And Operation Thereof:

- (1) Coffee/snow cone/smoothie shacks and similar facilities are and shall not be allowed to be placed in a required vision triangle, in or blocking an area of a service drive required to permit legal ingress into or egress from a lot/parcel, over or blocking an ADA parking space, over or blocking a public sidewalk, blocking access to a trash dumpster, too close to a fire hydrant, adjacent a section of curb painted and designated as reserved for fire department use, in a position to obscure a city traffic regulation sign, in or overhanging a public right of way, or in or overhanging a public easement; and
  - (2) Coffee/snow cone/smoothie shacks and similar facilities are required to have a temporary use permit in order to lawfully operate within the city of Nampa. (Refer to subsection A2b (3) of this section.)
17. Service Oriented Businesses or Service Based Extensions of Permanent Businesses (e.g., Emissions Testing Vehicles, Windshield Repair Tents, For Profit Car Washes, Light Vehicle Repair Or Inspection Uses, Etc.) (To be considered a service based temporary use, the nature of the use must be evaluated. A good example of a service based use would be one in which more than 50 percent of the transactions thereof must be noncash based by being insurance based):
  - a. Locations Allowed: Service businesses or service based extensions of permanent businesses are and shall be prohibited from locating on properties not commercially zoned and/or in any of the following locations:
    - (1) In any location whereat the city has reasonable grounds to believe that establishment and/or operation of the proposed temporary use would violate covenants, conditions and restrictions of any local subdivision, neighborhood or planned unit development community that has jurisdiction over the area wherein the temporary use permit is proposed to be exercised.
  - b. Duration, Frequency and Hourly Time Limits: Time allotted to/for a temporary service business or service based extension of a permanent business' operation(s) shall be as follows:
    - (1) Shall not be allowed to locate on any given lot or parcel for longer than ninety (90) calendar days in any given calendar year; and
    - (2) Shall only operate between the hours of six o'clock (6:00) A.M. and twelve o'clock (12:00) midnight from an approved location; and
    - (3) An eligible lot/parcel may only host one service oriented temporary business one time per, and in, any given calendar year. (This does not and shall not prevent a lot/parcel from being host to an approved seasonal temporary use in accordance with the regulations/allowances established in this section for such types of temporary uses.)
  - c. Land Use Regulations Governing Use and Operation Thereof:
    - (1) No more than one service business or service based extension of a permanent business use may or shall be established/allowed and operated from any given eligible lot/parcel at a time. It shall be illegal for more than one service business or service based extension of a permanent business to locate on an eligible lot/parcel at the same time; and

- (2) Placement of a structure(s), merchandise, and/or vehicles related to/part of a service business or service based extension of a permanent business use or operation, within a required setback shall be prohibited unless specifically approved in writing by the director or his/her designee on a case by case basis where no peril to health, safety or public welfare is foreseen or expected in connection with allowing setback intrusion; and
- (3) Notwithstanding the foregoing, no structure(s), merchandise, or vehicle(s) related to/part of a service business or service based extension of a permanent business use or operation shall be allowed to be placed or parked in a required vision triangle, in or blocking an area of a service drive required to permit legal ingress into or egress from a lot/parcel, over or blocking an ADA parking space, over or blocking a public sidewalk, blocking access to a trash dumpster, too close to a fire hydrant, adjacent a section of curb painted and designated as reserved for fire department use, in a position to obscure a city traffic regulation sign, in or overhanging a public right of way, or in or overhanging a public easement. (Ord. 3960, 4-4-2011)

B. Additional General Regulations Pertaining To Temporary Uses And/Or Their Establishment Or Operation: These regulations are in addition to (as applicable) and not in lieu of those specific standards in subsection A of this section.

1. Food/Beverage Sales:

- a. From A Temporary Structure: When conducted from a temporary structure, food preparation shall not entail any cooking process and/or equipment that generate(s) grease laden vapors unless the Nampa fire department certifies that the proposed cooking "setup" meets applicable requirements of the most current edition of the National Fire Protection Association regulations they enforce. "Grease laden vapors" are vapors containing rendered animal fat, vegetable shortening, and other such oily matter used for the purposes of and resulting from cooking and/or preparing foods.
  - b. Vehicles: As already previously stated, vehicles, as defined by this title, shall not be used as permanent (or effectually permanent) diners, eateries, restaurants, etc., in any location in the city.
  - c. Outdoor Eateries: Temporary outdoor eateries, unless used as an extension of a permanent restaurant (i.e., outdoor patio seating) or a fair, carnival, advertised sales promotions by permanent businesses and/or recognized civic event, shall not be allowed. Outdoor eateries are considered to be any business using seating, tables or some kind and/or some form of shelter (e.g., umbrellas, tents, canopy) to provide a place to eat outside. Drive-throughs associated with such businesses shall also be prohibited whether arranged on site or created by serving food to vehicles traveling along or pulling off of a street.
2. Hard Surface for A Base: Temporary uses shall be placed on a noncombustible surface (i.e., only gravel, concrete or asphalt) and must be at least twenty-five feet (25') away from combustible materials (e.g., weeds patches, board fences and permanent structures).
3. Property Owner's Permission: Written permission of the property owner(s) of a lot/parcel whereon a temporary use is proposed to be established and operated shall be required to be submitted to the city in conjunction with any application for a temporary use permit in order for the city to entertain approving such a permit request.

4. Accessibility: Temporary uses shall provide adequate accessibility as required by ADA standards.
5. Sanitary Facilities: In those cases where sanitary facilities are not provided within a structure being used in conjunction with a temporary use, the applicant for a temporary use permit shall provide written evidence of an agreement between the proprietor/operator of the temporary use and the owner or property landlord of the lot/parcel whereon the temporary use is proposed to be located at the time of application for a temporary use permit that access to sanitary facilities will be made available to persons working in/at the temporary use via those facilities on site in a primary structure/use already located on the same site.
6. Number Allowed; Exception: No more than one temporary use shall be allowed/located on a property at a time unless one of the uses is a seasonal use or mobile food vendor use, in which case two (2) temporary uses may co-share a property for a limited time as defined in this section.
7. Temporary Uses as Principal or Permanent Uses: No temporary use shall be allowed to occupy a vacant lot/parcel by itself (thus becoming, effectually, the primary/principal use of that property). No temporary use shall be allowed to remain established on or operate from a lot/parcel longer than the time periods allotted to said use by this section or by the terms and conditions of a temporary use permit issued to that use and its proprietor, whichever is more restrictive.
  - a. Structures under one hundred twenty (120) square feet used in conjunction with a temporary use (e.g., for sale of food/beverage products including, but not limited to, coffee shacks, smoothie shacks, snow cone shacks, etc.) shall be allowed to become permanent provided that they:
    - (1) Are an accessory structure to another principal structure on site; and
    - (2) A zoning certificate and a site design permit (if a drive-through is proposed, or, if the site area where on the structure and its requisite parking are intended to be placed is not already paved) are applied for and granted by the city. Thus, in order to sanction their permanent establishment/emplacement a requisite paved parking and service drive area (in accordance with requirements found in chapter 22 of this title) must be provided to/for them (i.e., their employees and clientele).

Such uses not intended to be increased to over one hundred twenty (120) square feet and whose proprietors do not intend to make permanent, shall be removed after one hundred eighty (180) days of being emplaced on a property. Another temporary use permit to allow more than one hundred eighty (180) days in the same calendar year shall not be allowed/granted.

- b. Tent type structures shall:
  - (1) Be able to resist wind up to seventy-five (75) miles per hour; and
  - (2) Be a wire supported suspension; and
  - (3) Be water resistant; and

(4) Be made out of quality and sturdy materials (e.g., 2-inch anodized aluminum, frame with galvanized connectors, 22-inch x 2 foot round concrete feet at 200 pounds each); and

(5) Shall respect clear vision triangles and setbacks (as any other temporary use must also do).

C. Regulation(s) Exceptions Allowances: The provisions of this section shall not apply to temporary uses including:

1. Any sales conducted under special court order;
2. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to or solicit orders for delivery, from local retailers, local businesses, local governments, local schools, or local wholesale firms;
3. The sale of farm or garden products at a farmers' market event or the operation of a farmers' market itself;
4. The sale of newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
5. The occasional sale of admission by local school students to a function of their school or fundraising sales by local service groups or clubs such as Elks, Kiwanis, Lions, Rotary or Boy or Girl Scouts;
6. Any political group seeking funds or membership, conducting a political rally or election activity;
7. Garage, yard or similar sales lawfully conducted by individuals at their residence or place of business (such sales are regulated in part by this code);
8. Private community center events. Such shall include craft and art shows, meetings, exhibitions and similar events;
9. Any activity conducted as a "special event" as sponsored and so identified by the city of Nampa;
10. Curbside lemonade stand(s) operated by persons under the age of eighteen (18) years in front of their own residence using a few chairs, a table and supplies;
11. Charitable/benefit car wash(es), bake and rummage sales, onetime annual events on a single lot/parcel for no longer than seven (7) days' duration from said person as conducted only by churches, recognized 501(c)(3) nonprofit organizations, service clubs, schools or ancillaries thereto for fundraising;
12. Idaho Youth Games;
13. Events conducted at the parks of the city or at the Idaho Center including equestrian events and concerts;



14. God and Country Rally;
  15. Weddings and funeral ceremonies conducted at churches, cemeteries, private facilities and residences;
  16. On premises sales of garden produce;
  17. Any uses similar to the aforelisted as approved/exempted by the director or his/her designee not to include those uses listed in subsection A of this section.
- D. Director Or Designee Discretion In Imposing Additional Approval Conditions Or Classifying A Proposed Temporary Use Not Identified Herein As Similar To Another Temporary Use Identified Herein And Regulating The Same: Where discretion is exercised by the director or his/her designee to determine whether a given proposed temporary use operation should be treated/regulated as equivalent to one of the types specifically recognized and categorized by this title, no allowance shall be made for the establishment or operation of such uses from properties within the city which, in order to be operated permanently from the same site, would be required to first obtain a conditional use permit from the city's planning and zoning commission. (Ord. 4050, 2-19-2013)
- E. Temporary Use Permit Submittal Requirements and Review/Issuance Procedures: Temporary use permits shall be the form and permit used by the city to receive information, requisite fees, and permissions suitable to review and approve, approve with conditions or deny requests by transient merchants and/or mobile food vendors as well as all other temporary use permits as defined, categorized and regulated by this title. Application requests for information, application procedures and submittal requirements shall be as set forth on a form to be provided by the director or his/her designee and made available at the city and may include a requested copy of a temporary use vendor's sales tax exemption number or certificate to verify legitimacy.
- F. Fees and Refunds:
1. Fee: Temporary use permits shall have a fee which shall be established by resolution of the city council. The fee may be adjusted by the council from time to time as circumstances warrant.
  2. Refunds: No refund of a fee paid for in conjunction with submittal of an application for a temporary use permit shall be given once paid.
  3. Exceptions: Payment of the application fee shall be waived when the petitioner is the city, county, state (including state sponsored institutions of higher learning) or federal government. All other agencies, organizations and entities shall be required to pay all required fees unless such fees are waived by the city council.
- G. Sign and Advertising Regulations for Temporary Uses:
1. All temporary uses wherein a structure is used in conjunction with, or as the base of, the use (except for seasonal fireworks stands and outdoor amusements) shall be limited to having no more than three (3), non-illuminated, wall signs on the structure (either painted or cabinet style) no larger than four feet by four feet (4' x 4') each in area or dimension. Only one such wall sign per wall of the structure shall be allowed. As exceptions, off site vehicle sales and

seasonal temporary uses may use signage in accordance with subsection 10-23-18Q of this title plus up to two (2) banners.

2. Temporary window signs may be used in temporary structures in accordance with subsection 10-23-7H of this title.
  3. No freestanding, portable or temporary signs shall be used in conjunction with a temporary use except as allowed for "off-site sales", for merchants not using a vehicle or structure in association with their temporary use (because they only use tables, rug racks, etc.) and model home sales offices as herein explained.
  4. Banners, streamers, flags and pennants shall not be allowed in conjunction with operation of a temporary use as prohibited by subsection 10-23-8E of this title.
  5. Mobile food vendors shall only be allowed advertising on their vehicles (i.e., no movable [portable] signs shall be used/displayed in conjunction with their operation).
- H. Appeals of Temporary Use Permit Approvals, Conditions or Denials: The act of a requested temporary use permit having been approved, denied or assigned conditions by the planning and zoning department may be appealed. If a permit was reviewed by a staff member, then appeal to the director may be made and if the director handled the permit, appeal to the planning and zoning commission may be made regarding the approval, approval conditions or denial of the permit. Appeals shall be submitted on a form prescribed by the director with an accompanying fee as set by resolution of the council within ten (10) calendar days of the date of a decision on the permit in question in order to be valid and acceptable. Appeals shall be handled as routine business matters.
- I. Revocation of Temporary Use Permits: The following regulations shall govern the rescinding of temporary use permits issued by the city:
1. Temporary use permits granted in accordance with the provisions of this section may be revoked if any of the conditions or terms of the permit are violated or if any law or ordinance is violated in connection with the establishment/setup or operation of the temporary use;
  2. Any temporary use permit issued by the director or his/her designee shall be considered null and void if the setup, operation and/or activity of the use does not conform to the approved site plan layout or plan of operation(s). Any major deviations requested from the originally approved site plan or plan of operations shall require application for a new temporary use permit. Minor changes may be approved in the planning and zoning department office or "in the field".
- J. Enforcement:
1. Violations: Violations of the temporary use code found in this section shall be deemed a misdemeanor and punishable as such in accordance with section 1-1-7 of this code;
  2. Exemption/Abrogation: Imposition of and compliance to the regulations set forth in this section does not excuse, exempt or otherwise abrogate a person or party responsible for a temporary use from satisfying all applicable requirements (e.g., peddler's permit, building permit, fire department approval, etc.) of other city departments or other agencies who might be involved in the review of a temporary use permit;

3. Failure to Clean Site: Temporary uses that do not clean up the premises (including the removal of any temporary use related structure) whereon they were permitted to operate after cessation of their respective temporary use may be fined, be subject to abatement, and/or have further issuance of temporary use permits suspended by either the planning and zoning or fire departments in addition to being subject to fines and legal enforcement actions as noted hereafter;
4. Compliance Notice and Enforcement:
  - a. Upon finding that a temporary use proprietor or operator is in violation of the regulations of this section or of the zoning ordinance, the director or his/her designee may declare the use illegal and in violation of zoning codes. The director may then instruct the owner or operator of the use to immediately remove it from the premises on which it is then established by giving a written demand/directive to vacate the premises. Alternatively or in addition thereto, the director or his/her designee may request that the city's code enforcement division notify and remove the offending temporary use via their normal or emergency abatement process(es) (in accordance with section 3-4-2 of this code, or the uniform abatement for dangerous buildings code) as the situation warrants;
  - b. In the event that enforcement proceedings are initially handled by staff members of the planning and zoning department and all reasonable attempts by said staff to remove a violator from a lot/parcel fail, then staff shall inform the appropriate code enforcement officer of the violation(s) committed by the violator for purposes of pursuing prosecution;
5. Removal of Unlawful Uses): Any temporary use found in violation of this section may be abated, impounded and sold or otherwise disposed of by the city or its lawful agents as follows:
  - a. Impoundment and Expense: Any unlawful temporary use which has not been removed following expiration of the notice to comply period, may be impounded at the request of the planning director or his/her designee, and the costs of removal and storage shall constitute a lien in favor of the city upon and against such temporary use structure, or the city may levy a special assessment of the premises whereon the temporary use was located to defray cost or to reimburse the city for the cost of abating the same. The city has the authority to employ such labor as necessary to carry out the provisions of this chapter and allow the bills therefor. Neither the city nor its agents shall be liable for any structure damage at the time of removal or storage. If removal or storage costs have not been paid and the structure reclaimed within thirty (30) days of its removal by the city, the city may proceed to sell or otherwise dispose of the temporary use in accordance with subsection J5c of this section.
  - b. Proof and Ownership: Any person claiming ownership of any impounded temporary use structure shall furnish proof of ownership. The applicant listed on the temporary use permit application shall be presumed to be the owner of the temporary use structure thereon, unless otherwise brought to the attention of the planning director. The structure shall be released to the owner upon payment of all the costs assessed against the structure.
  - c. Sale and Disposal of Impounded Temporary Use Structure: All temporary use structures which are not reclaimed shall be subjected to sale to the highest bidder for cash in the manner provided in subsection J5d of this section. Any proceeds in excess of removal

and storage costs shall be paid to the owner. In the event there are no purchasers for the sale of such structure, the city may discard such signs in any way deemed convenient.

- d. Notice of Sale or Disposal: Whenever any temporary use structure shall be sold hereunder, written notice shall be given to the owner as well as notice in one issue of the official newspaper five (5) days prior to the date of sale. The notice shall state that a sale of such structure will be had giving the time and place of such sale, that all bids shall be for cash to the highest bidder and that the city reserves the right to reject any or all bids. Upon payment of the bid prices, the city shall execute and deliver a bill of sale to the purchaser of such structure. (Ord. 3960, 4-4-2011)