

Chapter 18.XXX. - TEMPORARY USE PERMIT

18.XXX.010 - Purpose.

The purpose of the temporary use permit (TUP) is to regulate short-term activities (i.e., seasonal sales, sidewalk sales, etc.) on private property that may not meet the normal development or use standards of the applicable zoning district. The intent is to ensure that temporary uses will be compatible with surrounding uses, to protect the public health, safety, and welfare, and to minimize any adverse effects on surrounding properties and the environment. Short-term events requiring a TUP shall be permitted within zones allowing for commercial, industrial, manufacturing, mixed-use, and office. With the exception of properties zoned mixed-use, no TUPs will be approved for residentially zoned properties. This includes the following zoning districts:

- A. Administrative Professional – Institutional Zone (A-P)
- B. Office Park Zone (O-P)
- C. Neighborhood Commercial Zone (C-1)
- D. Community Shopping Center Zone (C-1, A)
- E. Retail Commercial Zone (R-C)
- F. Central Commercial Zone (C-2)
- G. Freeway Commercial Zone (F-C)
- H. General Commercial Zone (C-3)
- I. Industrial Park Zone (I-P)
- J. Commercial Manufacturing Zone (C-M)
- K. Light Manufacturing Zone (M-1)
- L. Planned Industrial Development Zone (PID)
- M. General Manufacturing Zone (M-2)
- N. Foothill Central Specific Plan

18.XXX.020 - Authority.

The director of community development or designee is authorized to approve or deny TUP applications, and to impose reasonable conditions upon such approval. Conditions may include, but shall not be limited to, requirements for buffers and/or barriers; requirements for vehicular ingress, egress, and on-site traffic circulation; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance, completion or removal. Any short-term events that are not specifically listed in this Chapter will be classified as either a Minor or Major TUP, based on this Chapter and the discretion of the director of community development or their designee. This Chapter shall not apply to any temporary use conducted in partnership with the City.

18.XXX.030 – Application for Filing and Processing.

- A. **Application Requirements.** Applications for a Major TUP shall be filed with the Planning Division 30 calendar days prior to the event; a Minor TUP shall be filed 14 calendar days prior to the event. The application shall be accompanied by the information identified in the Planning Division checklist for TUP applications. The applicant shall pay all applicable fees required for the TUP. Application information includes, but is not limited to:
1. Site Plan, which shall include the following:
 - a. Vehicle and pedestrian circulation plan, including access required by the American with Disabilities Act (ADA);
 - b. Sight Distance Exhibit (locations to be determined by the Engineering Division);
 - c. Parking plan;
 - d. Lighting plan;
 - e. Noise mitigation plan;
 2. Clean-up plan;
 3. Certificate of insurance(s), if applicable;
 4. Electrical plan, if applicable;
 5. Narrative of event with hours of operation, items to be sold, number of vendors, and any other information describing the event or requested by the city.
- B. **Standards.** Any use approved pursuant to a TUP, shall be conducted in full compliance with the following:
1. Development standards for the underlying zone, including but not limited to lot coverage, height limits for any temporary structures, landscaping, parking, and setbacks shall be used as a guide for determining the appropriate development standards for temporary events and uses.
 2. All materials and structures associated with the temporary event or use shall be removed within three (3) days from the end of the event or after the expiration of the TUP, whichever occurs first.
 3. A minimum of 30 days shall pass between the issuance of a new TUP and the expiration of previously issued TUP for the same property.
 4. Temporary events or uses may be subject to additional licenses, inspections, or approvals required by applicable local, State, or Federal requirements, such as a permit from San Bernardino County Environmental Health Services for food sales.
 5. Temporary events or uses may be subject to additional inspections or approvals as required and established by the City of Rialto Fire Department, Public Works Department, Police Department, the Building and Safety Division or other City departments.
 6. Tents, canopies, awnings and easy-ups shall be approved by the Fire

Department.

- C. **Temporary Signage.** The Applicant shall file an application for a Temporary Sign Permit and pay the applicable fees to the Planning Division. The temporary banner, flag, pennant, or signs (portable or otherwise) may be displayed for a maximum of 45 days for a Major TUP and 14 days for a Minor TUP, per event. Each event shall require a Temporary Sign Permit application and payment. The signage type and size requirements shall comply with Chapter 18.102 – Regulation of Signs and Advertising Structures of the Rialto Municipal Code. The length of time the signage may be displayed shall be consistent with conditions of approval of the TUP.
- D. **Findings and Decision.** The director of community development may approve, conditionally approve, or disapprove an application for a TUP.
1. The director may approve the TUP only after first finding that:
 - a. The proposed temporary use would be located, operated, and maintained in a manner conforming with the goals, policies, and objectives of the General Plan and provisions of the Rialto Municipal Code.
 - b. The establishment, maintenance, or operation of the proposed use, as conditionally approved, would not be detrimental to the health, safety, or general welfare of persons attending, residing, or working in the vicinity of the proposed use.
 - c. Approved measures for the removal of the use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by the Rialto Municipal Code.
 2. A denial of the TUP by the director of community development, must set forth the particulars wherein the application for a TUP failed to meet the necessary conditions set forth in Section 18.XXX.030(D)(1), as being prerequisite to the granting of the TUP.
- E. **Conditions of Approval.** In approving the TUP, the director of community development may impose conditions (e.g., buffers, hours of operation, noise limitations, lighting, parking, security, signs, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection D (Findings and Decision) and to preserve the public health, safety, and general welfare.

18.XXX.040 - Minor Temporary Use Events.

A Minor Temporary Use Permit (Minor TUP) event is a short-term activity on properties zoned commercial, industrial, manufacturing, mixed-use, or office which may be approved provided such activities do not result in adverse impacts on traffic, parking, noise, health and safety, or other environmental or community concerns. Upon review of the Minor TUP application materials, the director of community development, or their designee, may determine that they cannot make the findings required by this Chapter, or may impose conditions of approval to ensure, among other issues, proper operation of the proposed use and address any potential negative impacts.

Examples of events eligible for a Minor TUP include, but are not limited to, sidewalk sales, flower sales, parking lot sales, seasonal sales (excluding storage containers), and outdoor displays.

A. **Events.** The following events are allowed in non-residential districts for up to seven (7) consecutive days or less, and up to four (4) events within a 12-month period:

1. Arts and crafts exhibits;
2. Outdoor displays or sales of merchandise including sidewalk sales on private property;
3. Flower sales;
4. Parking lot sales;
5. Seasonal sales that do not propose storage containers;
6. Food events on private property;
7. Or other similar events at the discretion of the director of community development.

B. **Outdoor Displays/Sales.** Outdoor display of merchandise, parking lot and private sidewalk sales for businesses located in non-residential districts shall be allowed only in compliance with the following:

1. The activities are limited to four (4) events in a 12-month period. Merchandise displays or sales held on seven (7) consecutive days are considered one event. Merchandise display and sales shall not be permitted to be conducted longer than seven (7) consecutive days.
2. Only businesses immediately adjacent to a parking lot on the same parcel may utilize that parking lot for the event. No outdoor displays or sales are permitted in empty lots.
3. The hours of the event shall be the same as those allowed for business(es) participating in the event.
4. A maximum of 25 percent of the existing parking spaces in a particular parking lot may be utilized for the display or sale.
5. The merchandise displayed shall:
 - a. Be regularly sold at the participating business;
 - b. Be removed and placed inside of the building at the close of each business day; and,
 - c. Not impede the flow of pedestrian and vehicular traffic through the parking lot.
6. All parking lot entrances and exits shall be kept clear.
7. This section shall not be construed to permit the permanent or temporary storage of goods or equipment when otherwise prohibited by other provisions in this Chapter.

18.XXX.050 - Major Temporary Use Permit.

A Major Temporary Use Permit (Major TUP) applies to a short-term activity, on properties zoned for commercial, industrial, manufacturing, mixed-use, or office. Such activities may result in impacts on traffic, noise, or community concerns, in which the impact identified shall be mitigated. Upon review of the Major TUP application materials, the director of community development, or their designee, may determine that they cannot make the findings required by this Chapter, or impose conditions of approval to ensure, among other issues, proper operation of the proposed use and address any potential negative impacts. Examples of events eligible for a Major TUP include, but are not limited to, seasonal sales, carnivals, and model homes. The following conditions, as specified herein, shall apply to these activities, in addition to any other conditions of approval set forth by the director of community development or their designee.

- A. **Seasonal Sales.** Seasonal sales, such as those for holiday trees and pumpkins, are subject to the following guidelines and conditions:
 - 1. Each event shall be limited to 40 consecutive days of operation per calendar year and up to two events within a 12-month period.
 - 2. All lighting shall be directed away from and completely shielded from adjacent residential areas.
 - 3. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided to the satisfaction of the director of community development.
 - 4. Temporary storage containers for seasonal sales may be approved for up to 45 days between September 30th until January 31st. City approval of a site plan is required and must demonstrate, to the Director's satisfaction, that adequate parking will be provided among other conditions of approval, storage containers may be required to be screened from the public right-of-way.
- B. **Traveling Amusement Enterprises.** Circuses, carnivals, rodeos, pony riding, animal shows, special event tents, fairs, festivals, or similar traveling amusement enterprises are subject to the following guidelines and conditions:
 - 1. All such uses shall be limited to not more than seven (7) days, or not more than three (3) weekends, in any 12-month period.
 - 2. All such activities shall have a minimum setback of 200 feet from any residential property line. This may be reduced by the director of community development if they determine that no adverse impacts result.
 - 3. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided by the applicant to the satisfaction of the director of community development.
 - 4. Restrooms and waste disposal facilities shall be provided onsite.
 - 5. Security personnel may be required. The Police Department shall determine the level and type of security required.
 - 6. The applicant shall provide designated parking to accommodate amusement enterprise workers, vendors and support vehicles.
 - 7. Noise attenuation for generators, carnival rides or other equipment shall be provided to the satisfaction of the director of community development.
 - 8. The applicant shall be required to submit plans for approval of tents and site plan

to the Building Official and/or Fire Marshal 30 days prior to the special event being held. The tent and any structure including temporary structures, must meet all California Building Codes and applicable City codes.

9. Amusement rides shall comply with Title 8 of the California Code of Regulations and have all necessary approvals from the California Division of Occupational Safety and Health (Cal/OSHA), under the Department of Industrial Relations, prior to the submission of a Building Permit application.
10. To ensure proper safety, approval from the Police Department (PD) is required, and finger printing through PD may also be necessary.

C. **Temporary Model Homes and Trailers.** Applications for a TUP for model home(s), trailer(s) for new homes sales and/or construction trailer(s) may be processed in conjunction with a Precise Plan of Design (PPD) application. Such temporary uses shall be limited to office uses for the sale of new homes, or for the construction of permanent structure(s) on the site where the trailer is located or within the tract if new homes are being constructed. Any trailer or model home approved under a TUP shall be removed within 15 days following the close of escrow for the last home within the tract or when the applicant for the TUP and/or PPD, will no longer offer homes for sale in the tract; or, in the case of construction of a building on site such as a model home, receipt of a certificate of occupancy; or upon written notice to remove by the director of community development. The following requirements shall apply:

1. A sales office may be located in a garage, trailer, or dwelling; a certificate of occupancy will be required.
2. Approval shall be for a two-year period, at which time the sales office use shall be terminated and the structure restored back to its original condition. Extensions may be granted by the director of community development in one-year increments up to a maximum of four (4) years or until 90 percent of the development is sold; whichever is less.
3. A cash deposit shall be submitted to the City of Rialto, in an amount to be set by Council resolution, to ensure the restoration or removal of any temporary structure permitted by the TUP.
4. The sales office is to be used only for transactions involving the sale, rent, or lease of lots and/or structures within the tract in which the sales office is located, contiguous tracts, or a planned community.
5. Failure to terminate a sales office or structure and restore the site, or failure to apply for an extension on or before the expiration date, will result in forfeiture of the cash deposit, a halt in further construction or inspection activity on the project site, and an enforcement action to ensure restoration or removal of the structure and restoration of the site.
6. Street improvements and temporary parking at a rate of two spaces per model home shall be completed to the satisfaction of the city engineer and director of community development, including compliance with the American with

Disabilities Act, prior to commencement of sales activities or the display of model homes open to the public. Off-street parking spaces shall be required, except on-street parking may be permitted subject to the following conditions:

- a. The sales office, model homes, and on-street parking spaces shall be located at the end of a cul-de-sac and coordinated with construction phasing such that there are no homeowners living in homes located adjacent to the gated, secured area of the street.
 - b. The parking stalls shall be adequately striped and shall conform to City standards; ADA accessible parking and an accessible route to the sales office will be required.
 - c. Parking shall be permitted only within and on the project site. Parking along adjacent or perimeter streets (public or private) shall not be used to satisfy the model home sale off-street parking requirement.
 - d. Temporary landscaping, including minimum 48-inch box trees, shall be provided within the on-street parking area.
7. All fences proposed in conjunction with the model homes and sales office shall be located outside of the public right-of-way, except where approved by the director of community development and city engineer.

D. Temporary Work Trailers. This section shall apply to trailers or mobile homes on active construction sites for use as a construction office or temporary living quarters for security personnel. A separate Major TUP is required for each proposed work trailer. The following restrictions shall apply:

1. The director of community development may approve a temporary work trailer for the duration of the construction project or for a specified period, but in no event for more than two (2) years. If exceptional circumstances exist, a one-year extension may be granted by the director, provided that the building permit for the first permanent dwelling or structure on the same site has also been extended.
2. Installation of trailer coaches may occur only after a valid TUP and certificate of occupancy has been issued.
3. The trailer coach must have a valid California vehicle license and, if required, shall provide evidence of State Division of Housing and Community Development approval as prescribed in the Health and Safety Code of the State of California. A recreational vehicle being defined as a motor home, travel trailer, truck camper or camping trailer, with or without motive power, shall not be permitted pursuant to this section.
4. The temporary trailer coach installation must meet all requirements and regulations of the County Department of Environmental Health Services and the Community Development Department.
5. Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or finalization of the building permit for which this use has been approved, a certificate of occupancy has

been issued or the expiration of the time for which the approval has been granted.

- E. **Other Temporary Uses.** Other uses and activities that may be needed on a temporary basis as deemed appropriate by the director of community development.

18.XXX.060 – Modification or Revocation.

A TUP may be revoked by the director of community development, effective immediately, upon verbal or written notice. If found that the event has resulted in negative impacts that can be mediated, the director may require changes to the conditions of an approved TUP at any time, if needed to ensure that the use may continue to operate consistent with the required findings. The director also has the authority to revoke the TUP in the event: 1) the use constitutes a hazard or danger to the public or those present at the location, or; 2) a violation of any policy, rule, or regulation of the city, county or state, or; 3) a violation of any permit condition.

18.XXX.070 – Appeal

In the event that the director of community development revokes a TUP as result of finding an immediate threat to health and safety, the decision of the director of community development shall be final and not subject to an administrative appeal. For all other revocations and any denials of a TUP, a permittee may appeal the director's decision to the Planning Commission . The appeal shall set for the grounds for the appeal including but not limited to the alleged error or abuse of discretion and/or set forth the particulars wherein the application for a TUP did meet those necessary conditions set forth in Section 18.XXX.030(D). Said appeal shall be submitted in writing to the city clerk's office within 15 days of the decision, along with the appeal fee, and agendized for Planning Commission consideration.

18.XXX.080 – Violation

Any person who violates any provision of this chapter, or condition of approval of a TUP, shall be a public nuisance and/or guilty of a misdemeanor at the discretion of the prosecuting attorney.