

ORDINANCE NO. 6-20-05#4 (180)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALTOONA, IOWA, 2004, BY ADDING A NEW PARAPGRAPH CHAPTER 167.16 TEMPORARY USE PERMIT

BE IT ORDAINED by the City Council of the City of Altoona, Iowa:

SECTION 1. PARAGRAPH ADDED. The Code of Ordinances of the City of Altoona, Iowa, 2004, is hereby amended by:

Adding Chapter 167.16, by adding new language:

167.16 TEMPORARY USE PERMITS. These regulations are intended to prescribe the conditions under which limited duration agricultural and commercial activities (e.g. truck gardens, Farmers Market, sidewalk sales, etc.) may be conducted.

The intent is to allow the display and marketing of merchandise on a seasonal basis in an attractive manner to serve the desires of the general public, but prevent creation of any nuisance or annoyance to the occupants of adjacent buildings, premises or property, and the general public. It is also the intent to establish minimum standards for the operation of temporary uses in a manner that will provide for the health, safety, and welfare of the patrons, employees, the general public, etc., that may utilize or be affected by the establishment of the temporary use.

1. Application and Permit Processing: A temporary use permit shall be required for all temporary uses listed in this Section. A temporary use permit must be issued prior to the commencement of any temporary use. The Director of Community Development may, from time to time, specify the form of the temporary use permit application. Applications for said temporary use permit shall be secured from the Director of Community Development in the manner prescribed by this Section, who shall cause the application to be directed to all concerned City departments and divisions. Affected departments or divisions shall comment on the application. Temporary uses may be subject to additional permits, or inspections as required by any applicable law or regulation.

2. Prior Determination for Temporary Use Permit Approval: The Director of Community Development shall only approve an application for a temporary use permit, if all of the following findings can be made:

A. The proposed temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means of odor, noise, dust, or other nuisance.

B. The additional parking required by the temporary use will be provided on site, if applicable, or adequate street parking is available in the immediate area.

C. Increased traffic caused by the temporary use will not adversely affect the surrounding neighborhood or City at large.

- D. The proposed temporary use is consistent with all Comprehensive Plan, Municipal Code, and City and State regulations.**
- 3. Uses Permitted with a Temporary Use Permit:**
- A. The following uses are eligible for a temporary use permit provided they meet the following criteria:**
- 1. Parking lot sales, sidewalk sales (private sidewalks only), and clearance sales or other temporary uses which, in the opinion of the Director, are similar to the uses listed in this Section.**
 - 2. Truck gardens and stands used for the sale of agricultural products.**
 - 3. Farmers Market**
- B. Garage sales are exempt from these provisions provided they do not occur any more frequently than one three (3) day event four times per calendar year. Garage sales occurring more frequently shall be considered a commercial retail sales business in a residential zone, which is prohibited.**
- C. A “temporary use” may be defined as short-term or long-term. A “short-term” use shall be defined as those uses with a maximum duration of four (4) consecutive days or less. A “long-term” use shall be defined as those uses with a duration of more than four (4) consecutive days.**
- 4. General Regulations: Each temporary use shall:**
- A. Be described in a permit thereby issued by the Director of Community Development prior to commencement of the sale. This permit shall be in addition to all other licenses, permits or approvals otherwise required by any governmental entity.**
- 1. The number of additional parking spaces required, if any, and the location of such additional parking spaces, for the temporary activity shall be determined by the Director of Community Development. The number of permanent parking spaces allowed to be used under the short-term temporary use permit shall be reviewed and determined by the Director of Community Development.**
 - 2. The maximum number of permanent parking spaces allowed to be used for the operation of a long- term temporary use shall not exceed twenty (20) percent of the parking on a site plan that was approved by the City to be counted toward the allowable size of the activity or twenty (20) percent of the site area, whichever is more restrictive.**
- B. All unimproved parking areas and main walk areas shall be kept damp or shall be covered with a material to prevent rising of dust.**
- C. All sites shall be completely cleaned of debris and temporary structures including but not limited to: trash receptacles, signs, stands, poles, electric wiring or any other fixtures and appurtenances or equipment connected therewith, within five (5) days after the termination of the sale or special event.**
- D. No area of public right-of-way may be used without obtaining approval from the Director of Community Development, Chief of Police, Fire Chief, and Director of Community Services.**
- E. Proof of ownership, or a signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place shall be presented at the time the temporary permit is requested.**
- F. All temporary structures, including but not limited to greenhouses, trailers, mobile homes, etc., shall conform to the zoning setback requirements or as**

directed by staff. Tents under 300 square feet may be allowed within the front yard setback subject to approval of the Director of Community Development.

G. Multiple concurrent temporary uses on the same property shall be prohibited.

5. Specific Requirements:

A. Lot and Sidewalk Commercial Activities:

- 1. Permitted Zone Locations:** All commercial districts.
- 2. Maximum Duration:** Four (4) consecutive days, not to exceed four (4) events in a twelve (12) month period.
- 3. Setbacks:** All merchandise, trucks, trailers, etc. shall be setback a minimum of thirty-five feet (35') from all property lines.
- 4. Area of Operation:** The area of the operation shall not exceed eight hundred (800) square feet and no dimension shall exceed forty (40) linear feet.
- 5. Transient Merchants:** Transient merchants shall be subject to the licensing requirements of Chapter 122 of this Code. Said license shall be secured prior to issuance of a temporary use permit.

B. Agricultural Produce Truck Gardens and Stands:

- 1. Permitted Zone Locations:** Any zoning district.
- 2. Termination:** Stands and displays shall be removed when not used for a period of thirty (30) consecutive days.
- 3. Setbacks:** Tents, truck gardens, and stands may be allowed within the required front yard setback subject to site plan approval by the Community Development Director.

C. Farmers Market

- 1. Permitted Zone Locations:** Any zoning district.
- 2. Area of Operation:** Allowed on public right-of-way and streets with approval from the City Council.
- 3. Subject to conditions as may be placed upon it by the City Council.**
- 4. Maximum Duration:** Approved by City Council.

6. Use of Tents and Canopies: Tents and canopies may be used provided they comply with Subsection A through E of this Section as listed below:

A. Permit Required - The application for a permit shall include the following information:

- 1. Plot plan showing exact location of the tent or canopy and traffic circulation when located in a parking lot. Adjacent parking areas must also be shown.**
- 2. Size of the tent.**
- 3. Fire Retardency Certificate**
- 4. Dates and time of use.**

B. Fire Protection And Existing Requirements: Tents and canopies of any size shall conform in all respects with the International Fire Code as adopted by the City.

C. Anchorage: Tents and canopies shall be allowed if permanently affixed, or well anchored in the opinion of the Building Department, so that they resist the wind loads as specified in Section 1609, Wind Loads, of the International Building Code as adopted by the City. Tents and canopies not permanently affixed or well anchored must be taken down each day at the end of business.

D. Location: The location of tents and canopies shall be in accordance with the International Fire Code and in a location where they do not impair visibility at intersections

E. Size: Tents and canopies shall be limited to four thousand (4,000) square feet in area.

7. Conditions of Approval: The Director of Community Development may impose such conditions on a temporary use permit as is necessary to meet the purposes of this Chapter and protect the public health, safety and welfare and adjacent uses. Conditions which may be imposed may include, but are not limited to:

- A. Yard setback and open space requirements.**
- B. Parking.**
- C. Fences, walls or other screening.**
- D. Signs.**
- E. Vehicular and pedestrian ingress and egress.**
- F. Property maintenance during the course of the activity.**
- G. Control of illumination, noise, odor, vibration or other nuisances.**
- H. Hours of operations.**

8. Fees: The application fee for a temporary use permit shall be twenty dollars (\$20.00) payable each year of operation.

9. Violations and Penalties: The operation of a temporary use is a privilege allowed by this Chapter. Failure to maintain a temporary use in compliance with the conditions of approval and the regulations of this Chapter may be punished as set forth in Chapter 4 Municipal Infractions of the City Code of the City of Altoona, Iowa.

A written notice of a violation of the temporary use permit shall be sent to the operator of the temporary use and the property owner, if different than the operator, and the operator shall have a minimum of five (5) days and a maximum of ten (10) days, as determined by the Director of Community Development, to bring the site into compliance. If the operator fails to correct the violation in the prescribed time, the City may revoke the temporary use permit and issue a cease and desist order for the temporary use. There shall also be a one-year moratorium from that date on the issuance of any other temporary use permits on the property and a one-year probationary period for the second year following the violation. During the probationary period, if the operator of a temporary use fails to maintain the premises and the use in conformance with the conditions of approval and the City Code, after the notification procedures noted above, the City may revoke the temporary use permit and no other temporary use permits shall be issued on for the property for a period of two years.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALTOONA, IOWA, on this 20th day of June, 2005.

Signed: Timothy J. Burget, Mayor

ATTEST: Randy Pierce, City Clerk