



**AN AMENDMENT TO TITLE 8 TO ADD A NEW SECTION:
TEMPORARY USES**
Planner: Curt Moore
Prepared July 1 for the Board of County Commission
Public Hearing of July 14, 2011

APPLICANT: Teton County Planning Department

APPLICABLE CODE: Title 8 Teton County Zoning Ordinance as amended 5-12-2011

REQUESTS:

1. Add Section 8-6-3 Temporary Uses to Title 8
2. Amend Section 8-2-1 Definitions to include a new definition: *Temporary Uses*
3. Amend Section 8-4-2 Land Use Schedule Definitions to include a new definition: *Farm Stand*
4. Change the name for Chapter 6, Title 8 Conditional Use to Land Use Permits and list the Section 8-6-(1, 2, 3 and 4)
5. Move, rename, and re-number Section 8-4-7 Home Occupations to Chapter 6 Land Use Permits and renumber the section as 8-6-4 Home Occupation Permits

APPLICABILITY: County wide, all zoning districts

BACKGROUND: Presently Teton County does not have a prescribed procedure to make consistent decisions about land uses or special events that are temporary in nature. After receiving input from the Planning and Zoning Commission at their Public Hearing of April 12th, Planning Staff drafted a set of Temporary Use regulations and definitions that should help citizens, businesses, and event sponsorg have more clarity about what land uses are allowed without a permit, what land use activities do require a permit, and what criteria will be used to evaluate a specific temporary use proposal.

In the absence of some procedures and rules to follow, a business would have no certainty about their proposed land use activity. With an administrative review, the basic characteristics of the use are evaluated and possibly modified in order to ensure that the public safety and welfare are not unacceptably compromised.

The Temporary Use regulations basically ask the following type of questions:

- Is the proposed use going to be a permanent use or will the use discontinue at a specific point in time?
- Will the use take place in a location that does not cause unreasonable safety concerns? Some of these considerations are:
 - Do any associated structures block road sight –distances?
 - Do the access points, uses, or structures cause a hazard for motorist?

- Is there a reasonable concern that there will be harm to the environment, such as run-off, chemicals, excess noise, smoke, or glare?
- Is there a need to have some additional oversight by Eastern Idaho Public Health District, Teton County Road & Bridge Department, or the Fire Protection District?
 - Is there a need to have Eastern Idaho Public Health District evaluate the food or beverage service?
 - Is there a need to provide sanitary facilities?
 - Is there a particular fire hazard or other consideration the Fire District should be aware of?
- Is the event large and significant enough that adjacent landowners should be notified?

The Planning & Zoning Commission briefly considered the subject of shipping containers, “Zircons” and similar non-permanent structures that are used by businesses and residences. This type of structure and the potentially complicated set of regulations about them have been separated from this set of proposed regulations. Planning Staff believes that the shipping container discussion could be more productive if it were taken up separately at a later date.

Communities that have a clear set of procedures and standards for reviewing temporary uses and events provide greater predictability to organizations, citizens, and businesses about holding special events or conducting commercial activities that are of limited time duration.

AMENDMENTS TO TITLE 8 - TETON COUNTY ZONING ORDINANCE

1. Section 8-6-3 Temporary Uses and Structures is attached to this report.
2. The following definition is proposed to be added to Section 8-2-1 Definitions:

Temporary Use: A use established for a fixed period of time, with the intent to discontinue such use upon the expiration of such time, and that does not involve the construction or alteration of any permanent structure.

The definition above was drawn from the Planners Dictionary, which is referenced in the Teton County Zoning Ordinance. This particular definition was drawn from the Monroe County Indiana code

3. The following definition is proposed to be added Section 8-4-2 Land Use Schedule Definitions:

Farm Stand: A building, structure, or vehicle used for retail sales of fresh fruits, vegetables, flowers, herbs, or plants. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods, and homemade handicrafts. No commercially processed or packaged foodstuffs shall be sold at a farm stand.

The definition above was drawn from the Planners Dictionary, which is referenced in the Teton County Zoning Ordinance. This particular definition was drawn from the Gorham, Maine code.

4. Section Chapter 6 of Title 8 Conditional Uses Permit: Rename the chapter: Land Use Permits
5. Section 8-4-7 Home Occupations would be eliminated from Chapter 4 Base Zoning Regulations and placed in the new Land Use Permits chapter as 8-6-4 Home Occupation Permits.

No changes to the Home Occupation section are proposed.

FINDINGS OF FACT TO AMEND THE TETON COUNTY ZONING ORDINANCE:

1. **Consistent with purposes.** The proposed Temporary Use regulations and associated text changes are consistent with Section 8-1-3 Purposes of Zoning Ordinance and with 9-1-3 Purposes and Scope of Title 9 of the Teton County Subdivision Ordinance.
2. **Consistent with Comprehensive Plan.** The proposed Temporary Use regulations are consistent with the Teton County Comprehensive Plan 2004-2010 and any trends that are apparent in the on-going comp plan surveys.
3. **Consistent with other sections of the Teton County Zoning and Subdivision Ordinance.** The proposed amendment is consistent with other provisions of the Teton County Code such as the Sanitation standards of Eastern Idaho Public Health Department.
4. **Additional flexibility.** The proposed amendment to the text could provide additional flexibility in meeting the objectives of Title 8 the Teton County Zoning Ordinance.
5. **Predictability.** The Temporary Use text amendment allows citizens to have a more clear understanding of what temporary land uses need a permit, which uses are exempt and what the procedures are for obtaining a Temporary Use Permit. By obtaining a permit, businesses will have greater predictability and certainty about conducting businesses of a temporary, transient nature.

PLANNING AND ZONING COMMISSION RECOMENDATIONS:

The May 10, 2011 public hearing generated considerable deliberation by the Commission, especially since there were a number of citizens who provided public comment. The meeting minutes are attached. The Commissioners voted unanimously **to approve** the text amendment with the following changes made to the Planning Staff's version:

1. The definition of farm stand end in the word "farm stand" rather than "roadside stand";
2. On Page 1, in the first line under paragraph C. TYPES OF TEMPORARY USES: the word "permits" be stricken;
3. On Page 1, under paragraph C.1.c. the first line read: "Garage, yard, rummage or small scale summer produce sales provided the sales event is on a residentially zoned property and it last no longer than three (3) consecutive days.";
4. On Page 2, strike paragraph 2.a. Food Service Stands;
5. On Page 2, paragraph 2.b be changed to read: "Farm Stands may be seasonally permitted with a temporary use permit or the use can otherwise be permitted as a permanent use in the A-20, A2.5, C-1, C-2, C-3 Zoning Districts";

6. On Page 2, strike 2.d Firework Stands;
7. On Page 3, paragraph 3.a. be changed to read: "Concerts that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to two (2) events per year on the same property.";
8. On Page 3, add a paragraph 3.b to read: "Fairs and festivals that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to three (3) events per year on the same property.";
9. On Page 3 to change the paragraphs 3.b. to 3.c, 3.c to 3.d, and 3.d to 3.e;
10. On Page 3, change the first sentence in paragraph 3.e. to read: "Weddings, receptions, or other social events where the function or event involves the owner, lessor, or lessee of the property and where monetary consideration or fees for such use of the property or attendance is involved.
11. On Page 3, paragraph D. TEMPORARY USE PERMITS: after the 2nd sentence add a sentence that reads: "Notification to land owners may exceed the 300 foot distance at the discretion of the planning administrator."
12. On Page 3, paragraph D. TEMPORARY USE PERMITS: last sentence be changed to read: "The applicant shall complete the mailing and obtain a USPS Certificate of Mailing of these letters before an application is submitted or accepted as complete.
13. On Page 4, paragraph E. REVIEW CRITERIA: change 1. to read: "Uses of land and structures that require installation of permanent water, sewer or electrical facilities, regardless of their seasonal or intermittent use or character are regulated as permanent uses of land and are not eligible for a Temporary Use Permit under this section."; and
14. Incorporate changes suggested in staff report under AMENDMENTS TO TITLE 8 TETON COUNTY ZONING ORDINANCE, 1 – 5.

BOARD OF COUNTY COMMISSION ACTION:

- A. APPROVE the proposed Temporary Uses text amendment as modified and recommended by the Planning and Zoning Commission, having determined that the required findings of facts and all the criteria in section 9-3-2 (C-8) can be met.
- B. APPROVE WITH MODIFICATIONS to the proposed Temporary Uses text amendment having determined that the required findings of facts and all the criteria in section 9-3-2 (C-8) can be met.
- C. DENY of the text amendment application and provide the reasons and justifications for the denial.
- D. CONTINUE consideration of the application to a future Commission Public Hearing with reasons given as to the continuation or need for additional information.
- E. Remand the text amendment back to the Planning and Zoning Commission for further refinement and with suggestions for changes, additions or removing selected sections of the proposed text.

PLANNING STAFF RECOMMENDATION:

Action A- approve as modified and enumerated in the approved Planning And Zoning Commission meeting minutes from their May 12, 2011 Public Hearing

TETON COUNTY PLANNING AND ZONING COMMISSION
Meeting Minutes from May 10, 2011
County Commissioners Meeting Room, Driggs, ID

COMMISSIONERS PRESENT: Mr. Dave Hensel, Ms. Jennifer Dustin, Mr. Matthew Eagens, Mr. Ryan Colyer, and Mr. Shawn Hill

DEPARTMENT HEADS PRESENT: Mr. Curt Moore, Planner and Mr. Angie Rutherford, Planner

Mr. Hensel called the meeting to order at 5:01 PM

Approval of Minutes:

The Commission reviewed the draft minutes of April 12, 2011.

Mr. Colyer moved to approve the draft minutes of April 12, 2011, as amended. Mr. Hill seconded the motion. The motion passed unanimously.

Chairman Business:

There was no chairman business to discuss.

Administrative Business:

Ms. Rutherford provided a Comp Plan update. She stated the Board of County Commissioners has made their first round of official appointments to the Comp Plan committees. Mr. Eagens has been appointed to Community Events and Facilities, Ms. Dustin has been appointed to the Natural Resources and Outdoor Recreation committee, and Mr. Hensel has been appointed to the Core committee. Ms. Rutherford commented the stakeholder interviews would be held on the 18th, 19th, and 20th of May. She also explained the consultant team would like to interview the Commission as a group, but that would not be possible because of the Open Meeting law, so they would like to arrange meetings of two or three, or individual interviews whenever it is convenient for the Commissioners. The reason for the interviews is that the Comp Plan is, by state statute, a mandate of the Planning and Zoning Commission, so the consultant team would like to interview the team to get their input first. The consultant will then go forward and start gathering information from the community as a whole.

PUBLIC HEARING: Amending Title 8 Teton County Zoning Regulations – Adding a section to provide for a Temporary Use Permit

Mr. Moore explained there were five proposed changes to Title 8. The main change would be to add Section 8-6-3 Temporary Uses. The proposed draft presented to the Commission is a result of the work session on April 12, 2011 to discuss temporary uses and information derived from several existing codes in other locations. The four remaining changes proposed are 1) Amend Section 8-2-1 Definitions to include a new definition: *Temporary Uses*; 2) Amend Section 8-4-2 Land Use Schedule Definitions to include a new definition: *Farm Stand*; 3) Change the name of Chapter 6, Title 8 Conditional Use to Land Use Permits and list the Section 8-6-(1, 2, 3 and 4); and 4) Move, rename, and re-number Section 8-4-7 Home Occupations to Chapter 6 Land Use Permits and renumber the section as 8-6-4 Home Occupation Permits. He reviewed some of the types of questions that are often addressed in Temporary Use regulations, and read the proposed definitions for *Temporary Use* and *Farm Stand*.

Mr. Hensel had a question on 8-6-3 B. INTENT: and wondered if the staff would be the ones to refer a permit application to other departments or agencies for review if they believe there may be an issue. Mr. Moore stated when reviewing a conditional use permit there is a checklist to assist staff in identifying entities that should be included in the review process and he anticipated using a similar checklist for review of a temporary use permit. On 8-6-3.C. 1. c. regarding garage, yard or rummage sales, Mr. Hensel commented the limit of six such events would be almost every weekend in the summer.

Ms. Dustin questioned 3. Major Temporary Uses: c. regarding industrial operations related to car crushing. She was concerned about the fee and didn't want to discourage people from a usage because the fee related to cleanup would be really high. Mr. Moore referred to a car crushing operation that took place on Highway 33 that many people complained about. When staff went to question the land owner, the operation was finished. The permit process is not an attempt to discourage a car crushing use, but to have some control over the operation. He explained the permit fee is to cover the cost to review and grant the use, not to discourage someone from doing it. Ms. Dustin was concerned the fee for such an operation would be a large fee. Mr. Hill thought a fee would typically be based on the amount of staff time needed to review the permit, which shouldn't be more than approximately two hours time, so it would likely fall into the range of \$25 - \$100.

Mr. Hensel had a question on 3.d regarding weddings, receptions, or other social events where the function or event involves the owner or lessor of the property. He was wondering about the word "involved", and if it meant involved as in running a business or involved as in his daughter was getting married. Mr. Moore commented that was directed as a wedding reception business usage where money was being exchanged. Mr. Eagens suggested adding "lessee" in 3.d. He also commented on section D. TEMPORARY USE PERMITS: which requires notification of property owners within 300 feet of the subject property. He felt it might be appropriate in the city limits, but in the county neighbors are more spread out and a temporary use could potentially impact adjacent property owners beyond 300 feet. He thought a larger distance should be considered. Mr. Moore explained the 300 foot distance was chosen because it was consistent with other sections of the code for notification. He realized a large concert would have impact beyond 300 feet, but did not want to stack the deck against the applicant. He pointed out a pre-application meeting would be held to determine if the use required a minor or major permit. Major permit applicants would have much more extensive requirements that would have to be met. Neighbor notification would have to be documented before the application could be submitted in order to give them time for response.

Mr. Hill commented on 3.a regarding fairs, festivals, events and concerts and asked if the 1 – 10 days duration was an industry standard. Mr. Moore stated that duration limit was taken from another existing code. Mr. Hensel asked if an applicant requested a 10 day concert event permit, what would be judgment criteria or standards for determining if 10 days was too long. Mr. Moore explained that would involve the review criteria outlined on Page 4, and other entities in the valley would be consulted for their input. Entities like Sheriff Liford, who would like to see a permit process in place so he would have more advance notice to evaluate the impact and address it with an increase in staff or perhaps requiring the applicant to provide on-site security. Mr. Hensel asked if staff felt there were enough specific reasons outlined to make that determination on duration. Mr. Moore felt that with input from other entities, they would be able to make an appropriate determination. Mr. Eagens commented if there was an application for a concert event and there were not neighbors until 400 feet from the subject property, he felt those neighbors would be upset if they were not notified based on the impact a large concert would have beyond 300 feet. Mr. Moore commented a sign could be posted on the site or an ad run in the local paper, but time constraints could be an issue for the applicant that might not make the event worth sponsoring if those type of requirements were in place. Mr. Moore was not sure what type of notification for a large event would be appropriate and appreciated any input from the Commission.

Mr. Hill asked if someone was using their land for a parking area to provide a shuttle to other locations, would that require a permit. Mr. Moore believed it would be considered as a temporary land use and would require a permit. He commented there are other potential uses that were not listed, but may require a permit, because there are so many possibilities.

Ms. Dustin had a question on review criteria. She questioned if the event holder would be responsible for damage off of their property, such as a concert attendee causing damage to a nearby home or business. Mr. Moore felt that would be a legal issue, not the responsibility of the event holder. He commented if it was foreseen there could be property damage, a bond could potentially be required to ensure cleanup if the event holder does not do it. Mr. Hensel agreed with Mr. Moore that it would more likely be a legal issue, but it could be used to prevent the event holder from holding another similar event.

Public Comment:

Speaking in favor of the proposed temporary uses section Mr. Rick Jameson, owner of the adjacent property to the artist in Victor that was previously discussed, commented he was in favor of the proposed

Drive-In wanted to claim grandfathered rights for concerts, they would have to provide proof of holding similar events prior to 1994 in order to avoid a permit requirement.

Commission Deliberation:

Mr. Hensel started the discussion asking for comments on Page 1. There was no Commission comments. On Page 2, Mr. Hensel commented on 2. Minor Temporary Uses: a. Food Service Stands. He commented he would hate to see food service stands that were selling processed food, like a taco wagon, unless it was in conjunction with a major event such as a concert. He was not in favor of those type of stands or fire works stands outside city limits. On 2.f. regarding contractors' construction yards, trailers, coaches or mobile homes, Mr. Hensel referred to Commissioner Johnson's written comment that he felt if a temporary use permit was only valid for 180 days, that may not be sufficient to complete a construction project. He also wanted to know if the permit could be renewed once it expired. Mr. Hensel did not want to see a construction trailer set up if it wasn't in conjunction with a specific project. Mr. Hill suggested the applicant could be required to have a building permit for the project before applying for the permit. Mr. Moore pointed out the wording under 5. Term of Permit: allows the discretion to authorize the permit for longer than 180 days when appropriate. Mr. Hill agreed that food service stands and fire works stands should be restricted to within city limits.

Mr. Hensel commented on 2.b. and the need for small roadside farm and produce stands to obtain a permit. He questioned why that was different from a yard sale, which is exempt. He referred back to Page 1, under 1. Exempt Temporary Uses: c. regarding garage or yard sales that are restricted to lasting no longer than three consecutive days, with no more than six garage sale events within a single calendar year. He pointed out that the gardening season is very short in Teton Valley. Mr. Colyer felt the language needed some clarification. He pointed out in the proposed language there were conflicting terms. 2.a refers to food service stands and 2.b roadside farm or produce stands, while the definitions refer to farm stands and roadside stands. He felt there should be some consistency in use and language. Mr. Hill felt a food service stand and a farm stand were not the same thing. Mr. Hensel agreed and suggested striking 2.a. Food Service Stands. He then read the proposed definition of the term "farm stand", which referred to a roadside stand. Mr. Colyer asked if a farm stand was considered a roadside stand. Mr. Hill was comfortable with using farm stand, and striking the words "roadside" and "produce" from 2.b. Mr. Colyer felt in the definition of a farm stand the word "roadside" should be stricken as well.

Mr. Hensel referred to Ms. Dustin selling extra raspberries from her garden, which did not fit the description of a farm stand, and suggested adding some kind of language in C.1.c. covering summer produce sales on residentially zoned property. Ms. Dustin felt that would be fair. Ms. Dustin asked about the Bountiful Baskets program that sells produce and wondered if that would be a minor temporary use requiring a permit. Mr. Moore commented he was not familiar with the operation. Ms. Dustin stated it was being done at a tree farm that has a CUP and the truck comes in for approximately an hour to sell the produce in baskets. She asked if the tree farm would need another permit to allow the Bountiful Baskets program to continue. Mr. Moore felt that if the permitted tree farm was selling a similar agricultural product, it would not need a separate permit. Mr. Hill wanted to be clear about the distinction between a farm stand on a residential property versus a farm stand that sells produce brought in from other locations. In his mind, Mr. Hensel felt part of the distinction would be a farm stand that is selling produce throughout the summer versus a homeowner that was selling produce for a very short time because their garden had an abundance of fruit or vegetables. He did not feel selling excess garden fruit should need a permit, but a stand that was there through the summer season should require a permit. He felt it should be based on the duration, rather than where the produce comes from. Mr. Hill asked if staff could simply determine that selling excess raspberries from a home garden could be considered part of an allowed residential use. Mr. Moore felt it could be considered exempt because it was similar to a yard sale to get rid of excess personal belongings, whereas the farm stand distinction would be a full time stand where cars would pull off the road to purchase produce. Mr. Hill commented he could see the difference between someone selling excess raspberries versus someone operating a farm stand selling produce from various locations, but was not sure it would always be a clear cut distinction for other examples. Ms. Dustin pointed out she grows the raspberries as a hobby, whereas a farm stand would be more of a business to generate income. Mr. Moore pointed out that in paragraph C. TYPES OF TEMPORARY USES: there is a sentence that reads: "The Planning and Zoning Administrator may approve other unlisted temporary uses, structures, or activities if he/she determines that such use can comply with the Review Criteria for Temporary Use Permits and

reasonable shield between their decision and a law suit. An applicant could always request to be heard by the Board of Adjustment. Mr. Moore pointed out the decision would be based on input from other agencies as well.

Mr. Hill commented on the camping situation at concerts. He felt camping should require some sort of buffer between the location of camping and adjoining property owners, and wondered if some sort of standard should be added requiring a buffer for any impactful activity such as camping. Mr. Eagens suggested something like 30 feet from the property line as an example. Mr. Hill did not want to specifically quantify the distance, but felt it should be a consideration in the review criteria. Mr. Moore pointed out the paragraph on Page 4, D. 4. Permit Conditions of Approval. He believed the wording may give enough leverage to make additional requirements.

Motion: Mr. Colyer moved to recommend approval of adding Section 8-6-3 TEMPORARY USES as presented with the following changes.

1. The definition of farm stand end in the word "farm stand" rather than "roadside stand";
2. On Page 1, in the first line under paragraph C. TYPES OF TEMPORARY USES: the word "permits" be stricken;
3. On Page 1, under paragraph C.1.c. the first line read: "Garage, yard, rummage or small scale summer produce sales provided the sales event is on a residentially zoned property and it last no longer than three (3) consecutive days.";
4. On Page 2, strike paragraph 2.a. Food Service Stands;
5. On Page 2, paragraph 2.b be changed to read: "Farm Stands may be seasonally permitted with a temporary use permit or the use can otherwise be permitted as a permanent use in the A-20, A2.5, C-1, C-2, C-3 Zoning Districts";
6. On Page 2, strike 2.d Firework Stands;
7. On Page 3, paragraph 3.a. be changed to read: "Concerts that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to two (2) events per year on the same property.";
8. On Page 3, add a paragraph 3.b to read: "Fairs and festivals that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to three (3) events per year on the same property.";
9. On Page 3 to change the paragraphs 3.b. to 3.c, 3.c to 3.d, and 3.d to 3.e;
10. On Page 3, change the first sentence in paragraph 3.e. to read: "Weddings, receptions, or other social events where the function or event involves the owner, lessor, or lessee of the property and where monetary consideration or fees for such use of the property or attendance is involved.";
11. On Page 3, paragraph D. TEMPORARY USE PERMITS: after the 2nd sentence add a sentence that reads: "Notification to land owners may exceed the 300 foot distance at the discretion of the planning administrator.";
12. On Page 3, paragraph D. TEMPORARY USE PERMITS: last sentence be changed to read: "The applicant shall complete the mailing and obtain a USPS Certificate of Mailing of these letters before an application is submitted or accepted as complete.";
13. On Page 4, paragraph E. REVIEW CRITERIA: change 1. to read: "Uses of land and structures that require installation of permanent water, sewer or electrical facilities, regardless of their seasonal or intermittent use or character are regulated as permanent uses of land and are not eligible for a Temporary Use Permit under this section."; and
14. Incorporate changes suggested in staff report under AMENDMENTS TO TITLE 8 TETON COUNTY ZONING ORDINANCE, 1 – 5.

Mr. Eagens seconded the motion.

Vote: After a roll call vote, the motion was unanimously passed.

Mr. Brown thanked the Commission for listening to public concerns and appreciated their changes.

PUBLIC HEARING: Amending Title 8, Chapter 8 Teton County Zoning Regulations, Variance Clarifying requirements/findings and adding a section to address expiration of a Variance The proposal is to amend Title 8.8.2 Teton County Zoning Ordinance Variance Procedures to clarify the

Proposed Temporary Uses
Text Amendment with Planning & Zoning
Commission modifications per May 12, 2011
Public Hearing

8-6-3: TEMPORARY USES :

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- A. **APPLICABILITY:** This subsection shall apply to all temporary/seasonal uses, structures, special events and activities, collectively referred to as "temporary uses" that take place on private property.
- B. **INTENT:** The requirements of this subsection are intended to provide for the regulation and permitting of all non-exempt temporary/seasonal uses, structures, special events, and activities that take place on private property. These uses have only a temporary duration and are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, such as schools, parks, or county roads. Temporary uses or special events on private or public land that may impact travel on Teton County public right-of-ways or property may be subject to obtaining separate authorizations from Teton County Road and Bridge Department, Idaho Department of Transportation, Eastern Idaho Public Health Department, or the Teton County Sheriff's Office. Sponsors of special events taking place in public rights-of-way should check with these agencies.

- C. **TYPES OF TEMPORARY USES:** The three categories of Temporary Use ~~Permits~~ (TUP) are: Major, Minor and Exempt Temporary Uses. The Planning and Zoning Administrator shall determine whether a particular use is an exempt temporary use, a minor temporary use, a major temporary use, or if the proposed use is not listed below, whether it is similar in impacts to a listed use. The Planning and Zoning Administrator may approve other unlisted temporary uses, structures, or activities if he/she determines that such use can comply with the Review Criteria for Temporary Use Permits and would not otherwise jeopardize the health, safety, or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the temporary use.

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1. Exempt Temporary Uses: The following uses shall not require a temporary use permit:

- a. Any event sponsored in whole or in part by Teton County.
- b. Estate or real estate sales involving the property or items from the property where the sale is held.

- c. Garage, yard, rummage or small scale summer produce sales provided the sales event is on a residentially zoned property and it last no longer than three (3) consecutive days. ~~Garage, yard, or rummage sales provided the sales event is on a residentially zoned property and it last no longer than three (3) consecutive days.~~— No more than six (6) garage sale events are allowed on the same residential property within a single calendar year.

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- d. Special events such as weddings, purely social parties, or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or

attendance is involved. These exempted special events may include those events taking place upon the grounds of a private residence or upon the common areas of a subdivision or multifamily residential development for which no admission or rental fee or other charge is assessed. Weddings and similar events are also exempt from obtaining a permit when these types of events take place on commercial properties that are specifically authorized for these uses.

- e. Any organized activities conducted at permanent facilities typically intended and used for such activities, and/or on a site for which a zoning permit has been granted specifically allowing the special event activity, and the operation of the event complies with all permit conditions. Examples of such exempt activities include, but are not necessarily limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at places of worship.

2. **Minor Temporary Uses:** Minor temporary uses may occur on either developed or undeveloped property and typically take place for limited time periods, or occur seasonally. Minor temporary uses are typified by a relatively low level of impacts to the neighborhood or the environment. Minor temporary uses produce very limited noise levels to adjacent properties, and do not create substantial traffic and/or public safety concerns. Minor Temporary uses include, but are not limited to the following:

Food Service Stands;

- a. ~~Farm Stands may be seasonally permitted with a temporary use permit or the use can otherwise be permitted as a permanent use in the A-20, A2.5, C-1, C-2, C-3 Zoning Districts.~~ Farm stands may be seasonally permitted with a temporary use permit or the use can otherwise be permitted as a permanent use in the A-20, A2.5, C-1, C-2, C-3 Zoning Districts;

- b. Real estate sales offices and model homes within approved development projects;

Fireworks Stands;

- c. Weddings, receptions, or other social events where the function or event involves the owner or lessor of the property and where a monetary consideration or fees for such use of the property or attendance is expected and a total of no more than one hundred (100) attendees are expected;

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- d. Contractors' construction yards, trailers, coaches or mobile homes that are used as a temporary residence during construction of a dwelling;
- e. Christmas tree and pumpkin sales lots and seasonal sale of agricultural products that are sold from properties that do not have a legally established commercial retail authorization;
- f. Short-term workshops, retreats, or classes held at residences for the purpose of art, handicraft, music, or educational instruction.

3. Major Temporary Uses: Major temporary uses take place for a limited time period, or occur seasonally, and the potential impacts have a higher possibility to create health, safety or environmental problems, or the use is expected to create high levels of noise offsite and/or produce traffic problems, and/or could potentially disrupt the neighborhood. Major Temporary uses include, but are not limited to the following:

a. Concerts that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to two (2) events per year on the same property.

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b. Fairs and festivals that have a duration of one (1) day to no more than three (3) days in a thirty (30) day period and are limited to three (3) events per year on the same property. ~~Fairs, festivals, events, and concerts that have a duration of one (1) day to no more than ten (10) days in a thirty (30) day period and are limited to four (4) events per year on the same property.~~

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c. Outdoor temporary swap meets or auctions (limited to three (3) events per calendar year, four (4) days each).

d. Short term, temporary industrial type operations related to car-crushing/metal recycling where portable equipment is brought in to crush and process vehicles and prepare the metal for recycling.

e. Weddings, receptions, or other social events where the function or event involves the owner, lessor, or lessee of the property and where monetary consideration or fees for such use of the property or attendance is involved. ~~Weddings, receptions, or other social events where the function or event involves the owner or lessor of the property and where monetary consideration or fees for such use of the property or attendance is involved. A total of more than one hundred (100) attendees are expected.~~

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D. TEMPORARY USE PERMITS: Applicants for a Temporary Use Permit are required to have a pre-application conference with the Planning Administrator or his/her designee. A checklist of submittal items shall be provided to the applicant. If the Planning

Administrator determines that the proposed use is a Major Temporary use, as defined above, then a list of property owners within 300 feet of the subject property shall be generated and provided to the applicant. Notification to land owners may exceed the 300 foot distance at the discretion of the planning administrator.; A County letter shall be provided to the applicant, and the letter shall state that the applicant intends to apply for a temporary use permit, and the letter shall provide a brief description of the proposed event or temporary use, its location and proposed times. The letter shall provide the Planning Administrators contact information and solicit comments from the notified property owners. The applicant shall complete the mailing and obtain a USPS Certificate of Mailing of these letters before an application is submitted or accepted as complete. A USPS Certificate of Mailing of these letters should be obtained before an application is submitted or accepted as complete.

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1. Application Process: An application for a Temporary Use Permit shall be filed with the Planning Department on the prescribed forms accompanied by the submittal items identified on the Planning Administrator's checklist supplied at the pre-application meeting. Applications for Major Temporary Uses Permits shall include a U.S. Postal Service certification of mailing to all land owners within 300 feet of the subject property. The Planning Administrator shall make a written determination if the application is either complete or insufficient for review within seven (7) days of receipt.

2. Application Review: The Planning Administrator may send the application materials to Eastern Idaho Public Health District, the County Engineer, the Sheriff's Office, the Fire Protection District, and/or any other public agencies, homeowners associations or other entities that may provide comment on the application materials. Within fourteen (14) days of determining an application complete, the Planning Administrator shall review the application materials and may approve or deny the Temporary Use application. In the case where an application is denied, the applicant may resubmit a substantially revised application or may appeal the Planning Administrators decision to the Board of Adjustment, who shall hold a Public Hearing and consider the appeal.

3. Filing Fee: A filing fee as set by the current fee schedule shall be submitted by the property owner or owner's representative at the time of filing an application. The County shall accept no application or filing fee until the applicant for consideration of the request submits a complete application with required information and data.

4. Permit Conditions of Approval: Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.

5. Term of Permit: A temporary use permit issued pursuant to this section shall be limited to a maximum duration of 180 consecutive days per year, unless otherwise

specifically authorized in the terms of the Temporary Use Permit or as otherwise provided in this section.

6. **Bond and Clean-Up Deposit:** In its approval of a Temporary Use Permit for a special event, the county may—as it deems necessary to comply with these standards and applicable permit review criteria—require provision for a bond and damage or clean-up deposit, or other financial guarantee to provide that the site is restored to its former condition and any damages are repaired.

7. **Revocation:** The Planning Administrator may revoke a Temporary Use Permit at any time when a condition or conditions of the permit is not being met and/or the public health, safety, or welfare is being compromised by the continued operations of the temporary permit or special event. The Planning Administrator shall issue a cease and desist order in order to revoke the permit.

E. **REVIEW CRITERIA:** The review criteria of this subsection shall apply to all allowed temporary uses unless otherwise expressly stated.

~~1. Uses of land and structures that require installation of permanent water, sewer or electrical facilities, regardless of their seasonal or intermittent use or character are regulated as permanent uses of land and are not eligible for a Temporary Use Permit under this section. Uses of land and structures that require installation of permanent water and sewer facilities, regardless of their seasonal or intermittent use or character are regulated as permanent uses of land and are not eligible for a Temporary Use Permit under this section.~~

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2. The proposed site shall be adequately served by streets or highways and has sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.

3. The temporary use will have no significant adverse effect on nearby properties or jeopardize public health, safety, and general welfare.

4. Adequate parking will be provided to accommodate the vehicular traffic to be reasonably generated by such use. Parking will be available either on-site or at approved alternate locations.

5. Adequate sanitation facilities will be available on the site.

6. Permanent signs are prohibited. All temporary signs associated with the temporary use shall be erected no more than 14 days prior to the start of the event and shall be removed within 2 days after the activity ends.

7. The owner or operator of a temporary use shall be responsible for the storage and removal of all trash, refuse, and debris occurring on the site. Furthermore, all trash storage areas shall be screened from view of adjacent rights-of-way and the site must be maintained in a clean and safe manner.

8. No temporary use shall be established that is intended to be a permanent use on the site.

9. The temporary use regulations of this subsection do not exempt the applicant or operator from any other required permits, such as health department permits.

10. The temporary use or special event has adequate security measures, according to the Teton County Sherriff's Office, to ensure public safety. Additional fees may be assessed by the Sheriff's Office.

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