

Agenda Item 13
Meeting of 2/6/13

ORDINANCE 13-13239

AN ORDINANCE AMENDING SECTION 46-39, APPROVAL OF TEMPORARY USES AND SPECIAL EVENT ACTIVITIES, OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO REVISE AND CLARIFY THE REGULATIONS GOVERNING TEMPORARY USES AND SPECIAL EVENTS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE

WHEREAS, following a public hearing on October 10, 2012, the Planning Advisory Board has considered the recommendation of the staff and the public input and has recommended by a vote of 7 to 0 that Text Amendment 12-T8 be approved to amend Section 46-39, Approval of temporary uses and special event activities of the Code of Ordinances, City of Naples, to revise and clarify the regulations governing temporary uses and special events; and

WHEREAS, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that it is in the best interest of the City of Naples to approve Text Amendment Petition 12-T8;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 46-39, Approval of temporary uses and special event activities of the Code of Ordinances of the City of Naples, Florida, is hereby amended to read as follows (with underline indicating additions and ~~striketrough~~ indicating deletions):

Sec. 46-39. - Approval of temporary uses; special event activities.

(a) *Generally.* Except for the construction-related uses permitted under the temporary use permit provisions of this section, no temporary building or structure not permanently affixed to city-approved foundations and utilities and in compliance with all other city requirements shall be permitted in any zone district unless specifically approved by the city council.

(b) *Temporary use permits.*

(1) *Temporary use.* A temporary use permit must be obtained and may be granted for commercial activities that are temporary in nature and are subject to the following ~~a period not to exceed 45 days for such temporary uses as:~~

- a. Christmas tree sales lots for up to 45 days prior to the holiday.
- b. Temporary promotional activities and sidewalk sales involving the sale and promotion of goods and services made available by businesses located on the premises are permitted subject to the following:
 1. Activities that obstruct private parking or are held on the adjacent public sidewalk may be held for up to three consecutive days up to three times per calendar year.
 2. Activities that do not obstruct parking and are held on private property may be held for up to ten consecutive days up to three times per calendar year.

3. Sidewalk sales in the Fifth Avenue South Special Overlay District or Third Street Commercial Area Special Overlay district are permitted only in conjunction with a district-wide special event approved for the respective district that includes an approved plan for a sidewalk sale. A separate permit is not required for each business participating in the approved event. Approval of a business association is not required.
 - c. Garage sales, with a maximum of one permit per premises per year, plus one permit in conjunction with the relocation of the residents of a structure. No fee ~~is to~~ shall be charged for garage sale permits, and maximum time per permit shall be three consecutive days.
 1. The individual conducting the garage sale shall provide for control of parking for motor vehicles so as to reasonably prevent unsafe conditions and traffic congestion on the public street or streets adjacent to the premises upon which the sale is being conducted.
 2. Signage shall be governed by section 50-34 of this Code.
 - d. Sidewalk sales Commercial activities taking place within or on the premises of a hotel, place of worship, banquet facility or other place of assembly may be approved by the city manager provided that the activities shall not exceed two consecutive weeks, three times per calendar year per business obtaining the permit. There shall be no limit as to the number of temporary use permits for facilities located in commercial districts. Facilities located in public service districts shall be limited to six temporary use permits per calendar year for commercial activities not associated with the primary use of the property.
 - e. Other similar uses of a temporary nature.
 - f. Temporary signs and banners are addressed in Chapter 50, Article II. Temporary signs associated with a permitted temporary use shall be limited to the duration of the temporary use. Temporary signs are not permitted in the Fifth Avenue South Special Overlay District.
- (2) *Real estate development projects.* In the case of real estate development projects in any zoning district other than single-family residential, the developer may request a temporary use permit to permit necessary commercial, promotional, storage and construction activities which occur during construction of the project and which terminate upon completion of the project. The following activities may be permitted under the terms of such temporary use permit:
- a. Real estate sales offices. Provided the developer or applicant owns the subject property, a temporary use permit may be issued for a period not to exceed 180 days prior to the issuance of construction permits for an on-site sales office. The sales office may be used only for the sale of units to be built on the subject site. Upon the termination of the 180-day period, an application may be filed for an extension of the permit for a period not to exceed 90 days.
 - b. Construction materials storage, processing and fabrication.
 - c. Offices for persons engaged in the development of land.
 - d. Equipment storage.
 - e. Temporary housing.

- f. Model homes.
 - g. Construction trailers and sheds used for construction related activities, such as on-site offices and storage. Period of time to be determined by building official based on authorized time of permit for construction. Temporary permits are not required for normal construction activities for which a building permit has been issued.
- (3) [Reserved.]
- (4) *Application submittal.*
- a. Temporary use permit applications for the special uses listed in this section, and real estate development projects and signs, along with the required fee, a plot plan indicating the area for which the permit is to apply, and a complete description of the activities which will occur and the time for which the permit is requested, shall be submitted to the city manager.
 - b. The building official may grant a temporary use permit upon finding that the applicant has complied with the following:
 - 1. Any nuisance or hazardous feature involved is suitably separated from adjacent uses;
 - 2. Excessive vehicular traffic will not be generated; and
 - 3. A vehicular parking problem will not be created.
- (5) *Expiration; cancellation.* Each temporary use permit shall be granted for a specific period of time, at the end of which, if the use permitted as a temporary use has not been discontinued, it shall be deemed a violation of the zoning ordinance and shall be subject to the penalties provided for in this Land Development Code. A temporary use permit may be cancelled by the building official at any time the terms of the permit are violated.
- (c) *Special event activities.* Special event activities shall be defined as, but not limited to, any organized public activities held or conducted on a temporary basis which are apart from, or in addition to, activities and uses normally associated with and permitted at a specific location. Live entertainment, which requires a live entertainment permit in accordance with section 56-125, is distinguished from a special event in that live entertainment is not considered a temporary use.
- (1) *Permit required.* A special event permit must be obtained and may be granted for a temporary and specific period of time for such special event activities as:
- a. Air shows;
 - b. Art shows;
 - c. Running or walking events;
 - d. Carnivals;
 - e. Concerts;
 - f. Festivals;
 - g. Fireworks;
 - h. Parades;
 - i. Commercial photography shoots;

- j. Musical presentations;
- k. Street dances;
- l. Triathlons;
- m. Other similar event activities requiring off-site parking, street closures, sound amplification or use of city personnel or public property or extended events and sales beyond the time limits provided under a temporary use permit.

(2) *Application procedure.*

- a. A special event permit application must be obtained from and submitted to the ~~special events committee office~~ city manager at least 60 days prior to the requested event. This may be waived upon a showing of good cause.
- b. Each application will be reviewed by ~~the a special events committee comprised of a city manager appointed chair, a police representative and a fire prevention representative.~~
- c. The ~~special events committee~~ city manager may grant or deny a special event permit considering whether:
 - 1. The applicant has complied with all required criteria outlined on the permit application form.
 - 2. Sufficient city support personnel are available to assist in the conduct of the event.
 - 3. Adequate support facilities are available for the event with the support facilities including, but not being limited to, parking, refuse collection, sanitation, and lighting.
 - 4. No conflict exists with the requested event and other approved and previously scheduled events.
 - 5. The event will not result in the over-utilization of city facilities nor the over-utilization of 1 area of the city.
 - 6. No outstanding balances are due the city for assistance from previous activities from the applicant.
 - 7. Amplification of sound has been justified and is established at a level acceptable to the city manager.
 - 8. Crowd size has been determined to be a manageable size for the proposed event and site.
 - 9. The event is generally compatible with the character of the city and/or the locale requested.
 - 10. The applicant complied with terms and conditions of any previously granted permits.
- d. City council approval is required ~~prior to~~ for any event which necessitates street closings, off-site parking, amplified entertainment, city co-sponsorship, crowd attendance in excess of 1,500 or fireworks display.
- e. Signage associated with a special event shall be included for review and approval with the special event application and may be installed one day prior to the event and shall be removed at the conclusion of the event. Signage is limited to the site of the event. Directional signs may be permitted in the right-of-way adjacent to event site or

~~associated parking area(s) on the day(s) of the event subject to approval of a right-of-way permit. Any requested events occurring within the 5th Avenue South overlay district must obtain approval from the staff action committee (SAC) prior to the event.~~

- (3) *Expiration of permit; cancellation of permit.* Each special event activity permit shall be valid for a specific period of time and for a specific purpose as indicated on each permit application form. If the applicant fails to fulfill the requirements as set forth in the permit, or if at any time the event does not comply with the specific terms and conditions of the permit and specifications approved by the city manager, including but not limited to time and activities, the permit may be cancelled by the city manager and the activity shall cease immediately.

Section 2. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 3. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict therewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall take effect immediately upon adoption at second reading.

FIRST READING DECLARED THE 16TH DAY OF JANUARY, 2013.

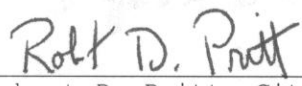
PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 6TH DAY OF FEBRUARY, 2013.

Attest:


Patricia L. Rambosk, City Clerk


John F. Sorey III, Mayor

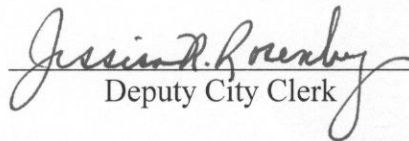
Approved as to form and legality:


Robert D. Pritt, City Attorney

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Date filed with City Clerk: 2-22-13

I hereby certify that this page in the official records of the City of Naples was intentionally left blank.


Deputy City Clerk