



Receipt Date Stamp

CITY OF CARLSBAD

Planning, Engineering, and Regulation Department
PO Box 1569, Carlsbad, NM 88221
Phone (575) 885-1185
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TEMPORARY USE APPLICATION
Sec. 56-80 and Temporary Housing

Application Date: _____

Fee Paid (\$10.00): _____

TYPE OF USE REQUESTED:

- Carnival, Circus, Fair , Public Event
Parking Lot Sale
Garage, Estate, Yard Sale
Natural Disaster, Emergency Personal Assistance Location
Real Estate Sales Office
Temporary Housing
Other

APPLICANT INFORMATION:

NAME ADDRESS
CITY STATE ZIP PHONE EMAIL

PROPERTY OWNER INFORMATION* (IF DIFFERENT FROM APPLICANT):

NAME ADDRESS
CITY STATE ZIP PHONE EMAIL

* A signed affidavit from the property owner(s), consenting to submittal of the application, must be included with the application.

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (FOR WHICH TEMPORARY USE IS REQUESTED):

ADDRESS LOT BLOCK SUBDIVISION ZONING

Description and Duration of Temporary Use:

Site Plan:

FOR OFFICIAL USE ONLY:

Approved Approved with Conditions Denied By: _____

Approval Date: _____ Permit Expiration Date: _____

Conditions of approval:

SEC. 56-80. TEMPORARY USES.

(a) **Allowed Uses.**

Temporary uses shall be allowed in accordance with the standards of the zoning district and this subsection. These uses require written permission from the property owner and an approved Temporary Use Permit from the Planning Director and in some cases a Business Registration, unless otherwise expressly permitted or allowed.

1. Carnivals, Circuses, Fairs and Public Events. Carnivals, circuses, fairs and public events shall only be approved by the City Council on a case by case basis and shall be in accordance with all applicable regulations. Permission of the property owner is required.
2. Garage, estate and yard sales. Garage, estate and yard sales require a Temporary Use Permit but do not require a business registration and may be conducted, but shall comply with the following minimum requirements:
 - (a) There shall be no more than two such activities per residence per twelve month period;
 - (b) Each sale shall begin and end within a consecutive seventy-two hour (72 hr.) period;
 - (c) Sales shall be conducted on the property of the person selling the goods. Multiple home sales must be held on the property of one or more of the participants;
 - (d) No goods purchased for resale may be offered for sale or sold and no consignment goods may be offered for sale or sold;
 - (e) Directional and advertising signs shall not be located in the public right-of-way or attached to utility poles or other structures located in the public right-of-way; and
 - (f) All directional or advertising signs shall be removed within twenty-four hours (24 hrs.) of the completion of the sale.
3. Natural Disaster and Emergency Personal Assistance Locations. Temporary uses and structures needed to provide personal services as the result of a natural disaster or other health and safety emergency are allowed for the duration of the emergency and do not require a temporary use permit or business registration.
4. Parking Lot Sales. Permission of the property owner is required for parking lot sales. Parking lot sales may include the sale of rugs, blankets, fruits, vegetables, and other such items but does not include the sale of live animals, which is prohibited. Parking lot sales are allowed in the parking lot of a permitted structure or use in the C-1, C-2, and I zoning districts for up to thirty (30) consecutive days at a time.
5. Real Estate Sales Offices. Sales offices are allowed on development sites in any zone until all lots or houses are sold. Use of the sales office for lots or homes outside of the project area is prohibited.
6. Recreational Vehicle as a Temporary Dwelling. A property owner may be permitted to reside in a recreational vehicle, for up to six months (6 mos.), on a building site where a residential building permit has been issued.
7. Recreational Vehicle as a Temporary Office. A business owner or contractor may be permitted to utilize a recreational vehicle as an office, for up to six months (6 mos.), on a building site where a commercial building permit has been issued.
8. Recreational Vehicle for a Night Watchman or Security Guard. A business owner may be permitted to utilize a recreational vehicle as an office for a night watchman or security guard, provided it is not used as a residence.
9. Restaurant, Mobile and Pushcarts. Prior to issuance of a Temporary Use Permit, the applicant is required to provide the City with copies of all approved State of New Mexico permits and City Fire Marshall inspections and a signed affidavit from the property owner authorizing the placement of a mobile restaurant or pushcart on their property.
 - a. Operation of a mobile restaurant or pushcart, in conjunction with a special event, is limited to the duration of the special event.
 - b. If not in conjunction with a special event, operation of a mobile restaurant or pushcart shall be limited to the R-R, C-1, C-2, and I zoning districts. If in conjunction with a special event, operation of a mobile restaurant or push cart shall be permitted any zoning district.
10. Temporary Housing/RV Park. Temporary Housing is defined as: "Housing for individuals or families, on a temporary basis, either in pre-fabricated, self-contained modular structures with other

amenities, OR individual self-contained recreational vehicles, not including tents, truck campers or camper shells. Specifically for the purpose of this definition, Temporary Housing may also be referred to as crew-camp housing, work force housing, congregate residence or employee housing. Residents living within the temporary housing may be employed solely by one company, industry or project or may be employed by a variety of employers.”

Temporary Housing, self-contained is defined as: “Temporary Housing that does not require connection to city utilities, is served by an independent waste water and freshwater delivery service, and that includes sleeping, cooking, dining, toilet and shower facilities, contained within an individual RV or contained within individual or multiple modular structures.”

- c. Temporary Housing is permitted only on land currently (as of the date of approval of these regulations) zoned “C-2” Commercial District, “R-R” Rural Residential District, and “I” Industrial District, excepting the area that constitutes the Carlsbad Airport Industrial Park (CAIP), with a minimum of two acres for the temporary housing area, and where primary access to the area of Temporary Housing is from an Arterial Street, as defined in the Code of Ordinances. The acreage requirement for a Temporary Use Permit for Temporary Housing is not subject to the Appeal (Variance) process as defined in Sec. 56-150(k) of this Zoning Ordinance. All Temporary Use Permit applications for Temporary Housing must fully meet the acreage requirements listed within this section.
- d. The land on which a Temporary Housing Use is permitted shall be properly addressed for 911 purposes.
- e. Temporary Housing shall be connected to city water and sewer utilities or completely self-contained, except for electrical service, which shall be obtained from the service provider. All electrical work must be conducted by a licensed electrician and City electrical permits and inspections are required. The use of generators is prohibited except in an emergency power outage situation.
- f. A site plan shall be provided that identifies:
 - a. the location of all pre-fabricated modular units and/or RV spaces with required setbacks and spacing between units; and
 - b. ingress and egress locations: a minimum of 1 with a minimum width of 24’ combined with an emergency turnaround of at least 100’; and
 - c. vehicular drive aisles - minimum width of 24’ with no on-street parking, minimum chip seal or gravel paving and graded to prevent ruts, muddy and dangerous driving surfaces. Vehicular drive aisles shall remain clear of all obstructions, including vehicles and trailer/RV towing hitches or tongues; and
 - d. emergency access and turn around, if necessary, (minimum 100’ diameter); and
 - e. RV spaces shall be a minimum 20’ in width and 60’ in length, or shall contain an equal amount of square footage (1,200 sq. ft.). There shall be a minimum 14’ between the sides of all recreational vehicles, and a minimum of 8’ between the backs of all recreational vehicles. Any structure, including awnings, attached to or touching a RV shall, for purposes of this separation requirement, be considered part of the RV.
 - f. parking spaces (1 - 9’x18’ space per sleeping unit or recreational vehicle space) Each RV space shall contain within the 20’ minimum width and 60’ minimum length at least one parking space designed for the inhabitant of said RV space. No vehicular parking next to a RV space, or otherwise, shall be allowed to extend past the boundary of said RV space or into the vehicular drive aisle.; and
 - g. visitor parking spaces (1 – 9’x18 ’space for every 4 sleeping units) in designated visitor parking area; (one handicap parking space required if park is open to the public) and
 - h. the location of amenities such as park areas, swimming pool, picnic tables and/or recreational activity areas, if provided.
 - i. a utility plan that shows the location, size and details of all lines located on the site as well as connections to temporary housing and any connections to city utilities. The utility plan shall also show the plan and layout for solid waste disposal.
 - j. the location of fire hydrants (*or alternative fire suppression system as approved by the Fire Marshal*) at the entrance of the development, if fire suppression is deemed necessary for the development.
- g. A grading and drainage plan is not required because permanent changes to the site, including grading, are not permitted.

- h. A minimum 6' tall solid (chain link with slats not allowed) perimeter fence (or 20' landscaping buffer complete with vegetation designed to screen the Temporary Development from neighboring properties. Landscaping shall be installed, irrigated and maintained – refer to Sec. 56-110 of this Zoning Ordinance for details concerning approved vegetation and other landscaping requirements.) shall be erected between the area of the site utilized for temporary housing and parking and the public Right-of-Way or any adjacent residentially zoned properties. A non-solid perimeter fence shall be allowed between the Temporary development and any non-residentially zoned property, or any undeveloped property, regardless of zoning. Any solid fence erected shall have the finished side facing the public ROW or adjacent properties to the Temporary Housing development. The purpose of this fence is to define the temporary housing area and to prevent litter and debris from blowing onto adjacent land. A building permit for the fence is required.
- i. A 20' set back from this fence shall be maintained free of obstructions at all times.
- j. A minimum 10' clear separation between all temporary structures shall be maintained at all times.
- k. A minimum 30' set-back from the front property line shall be maintained. This area may be used for landscaping or parking but may not be used for temporary housing units or RV spaces.
- l. If not connecting to City sewer facilities, a copy of a NMED approved Sanitation Plan shall be provided to the City. At a minimum, the Sanitation Plan shall indicate the type of service (storage tank, septic system, daily pick up, etc.) and the sanitary service provider's name and contact information, type of sanitary services provided (grey water, black water, fresh water, litter control, trash collection), the location of proposed solid waste containers, to be approved by the City Utilities Department, the schedule or frequency for such service provision, and the responsible party for immediate clean up if a spill occurs. All temporary housing units and/or RVs must be provided sanitary service on a regular basis, as needed, and identified in the Sanitation Plan.
- m. The Sanitation provider shall comply with all Federal, State, and Local regulations including obtaining a permit from the City Wastewater Department.
- n. Permission to connect to City water and/or sewer facilities is dependent upon approval from the Utilities Department Director. The Director may require detailed plans regarding the size and location of the lines and connections. The developer is responsible for costs associated with the installation of, and connection to, the City facilities, both within the public right-of-way, if applicable, and within the private property used for the temporary housing. All construction work, including connections, will require the proper City permits and inspections will be conducted by the City in order to protect the health, safety and welfare of future temporary housing residents.
- o. Temporary Housing shall not be located within a floodway as delineated on the City's Flood Insurance Rate Maps.
- p. City Code Enforcement personnel may conduct unscheduled periodic inspections of the temporary housing use to ensure regulations and conditions are met.
- q. If the applicant has provided a professional site plan that meets all of the aforementioned requirements, staff shall forward the request to the Planning and Zoning Commission for their recommendation to the City Council. The City Council shall make the final decision regarding the issuance of a Temporary Use Permit for Temporary Housing. The City Council may approve a permit for up to five years. The applicant may seek renewal for the Temporary Housing development if the following considerations and requirements are met:
 - a. the temporary development has not been deemed a public nuisance as determined by the need for repeated police response to the development due to criminal or unsavory behavior of the inhabitants
 - b. the temporary development has remained compliant under the existing City codes, and has avoided repeated violations as determined by City Code Enforcement
 - c. it is determined by the Planning Director that the need for temporary housing still exists within the community. If renewal is requested by an applicant, City staff will verify if a need still exists by contacting permitted RV Parks and mobile home parks to assess vacancy rates.
 - d. upon application for permit renewal, the property owner must submit a detailed plan that indicates what the permanent long term plan for the property shall be, and that the long term plan will be fulfilled within the additional five year renewal. No additional permit renewals will be allowed. *(All Temporary RV Parks currently approved at the time of the passing of this amendment, 3-26-2019, and operating will be allowed two permit renewals.)*

- e. prior to approving a permit renewal, the Fire Marshal shall review the site plan and provide a report indicating fire suppression requirements, including quantity and location of fire hydrants or on-site facilities to be installed immediately. No additional five year renewal will be granted unless the Fire Marshal's requirements are met.
 - r. A Temporary Use Permit for Temporary Housing may be revoked by the City Administrator upon finding that:
 - k. the temporary housing is unsafe
 - l. the housing or grounds are unsanitary
 - m. crime or safety issues are prevalent
 - s. If approved, you are required to contact the City Clerk to obtain a lodger's tax application.
 - t. Water and sewer fees will be based on the number of spaces approved by City Council, not the number of occupied spaces.
 - u. An approved Temporary Use Permit for Temporary Housing runs with the land and is transferrable to the new land owner for the remainder of the permit timeframe. After expiration of the permit, the new owner may apply for a renewal, as provided for in item #16 above.
 - v. The permit period begins when the first unit is placed on-site. The permit period ends as specified by the City Council and renewals expire as specified by the Planning Director.
11. Other Uses. The Planning and Zoning Commission may approve other temporary uses and activities or special events. Such uses shall not jeopardize the health, safety or general welfare, or be injurious or detrimental to properties near the proposed location of the activity. Such uses shall comply with all applicable ordinances, laws, rules, regulations, codes and policies.

(b) General Regulations.

1. All temporary uses shall comply with the provisions of this Section:
 - (a) Permanent changes to the site are prohibited;
 - (b) Permanent signs are prohibited. All temporary signs associated with the temporary use shall comply with all applicable ordinances, laws, rules, regulations, codes and policies and shall be placed no more than seventy-two hours (72 hrs.) in advance of the event, and shall be removed within twenty-four hours (24 hrs.) of the end of the event;
 - (c) Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site;
 - (d) All other required permits and licenses, such as health department permits, shall be obtained; and
 - (e) Temporary uses shall be subject to site plan review as required by the Temporary Use Permit process.
2. Approval Criteria.

The Planning Director may approve a Temporary Use Permit if it is determined that all of the following conditions are met:

 - (a) That the proposed site is adequate in size and shape to accommodate the temporary use;
 - (b) That the proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate;
 - (c) That adequate parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations (with an approved alternative parking plan);
 - (d) That the operation of the requested use at the location proposed and within the time period specified will not endanger, jeopardize or otherwise constitute a menace to the public health, safety or general welfare; and
 - (e) All other required permits have been obtained.
3. Conditions of Approval.

In approving Temporary Use Permits, conditions may be imposed as necessary to reduce or minimize any potential adverse impact upon adjacent property. Conditions shall relate to an impact created or aggravated

by the proposed use and shall be roughly proportional to the impact. For example, any or all of the following conditions may be imposed:

- (a) Provision of temporary parking facilities, including vehicular access, ingress, and egress;
- (b) Control of nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, dirt, dust, gases, heat, noise, odors, smoke and vibrations;
- (c) Limits on temporary buildings, facilities and structures, including height, placement and size, and location of equipment and open spaces, including buffer areas and other setbacks;
- (d) Provision of medical and sanitary facilities;
- (e) Provision of solid waste collection and disposal;
- (f) Provision of safety and security measures;
- (g) Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested or specified in this Section;
- (h) Submission of a performance bond or other financial guarantee to ensure that any temporary buildings, facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition; and
- (i) Other conditions deemed appropriate by the City Administrator.

