CHAPTER 1138. TEMPORARY USES

1138.01. Purpose.

Temporary use regulations are established to achieve the following purposes:

(a) To allow residents, business owners, property owners, and others to host temporary events which contribute to the economic and/or social vitality of the City of Delaware.

(b) To ensure that temporary uses or events do not negatively impact the permanent character of residential, commercial, or industrial sites in the City.

(c) To ensure that first responders can service a temporary use or event.

1138.02. General regulations for all temporary uses.

(a) Permit Required. A temporary use permit shall be required for all temporary uses permitted unless set forth otherwise in this Chapter.

(1) An application for each temporary use permit shall be made on the appropriate form(s), submitted to and either approved or denied by the Director of Planning and Community Development.

(2) A fee as set forth in the schedule of fees established by Council shall be submitted with the application.

(b) Permitted temporary uses are subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted.

(c) The recipient of a temporary use permit shall provide for a thorough cleanup of the site upon termination of the outdoor sales, event or display.

(d) Temporary use permits pursuant to this subsection may be issued to applicants other than the owner of the property or tenant when such owner or tenant has granted written permission for the proposed activity on the property.

(e) Dependent on the use and related activities, building permits may be required regardless of whether a temporary use permit is or is not required.

(f) All signs shall adhere to the requirements set forth in Chapter 1125 of this code.

(g) Decision Criteria. Temporary outdoor sales, displays, and events are permitted when it is determined during the review of the application that the proposed location and scope:

(1) Does not create any safety hazards;

(2) Does not unreasonably disrupt traffic, pedestrian movement, or parking;

(3) Does not disrupt daily operations of the principal business located on the lot; and

(4) Does not adversely impact the health, welfare, and safety of the community.

(h) Revocation. Failure to comply with any of the regulations in this Chapter shall result in immediate termination of any issued Temporary Use Permit. Upon revocation, the property shall be ordered to be returned to its previous state prior to issuance of the Temporary Use Permit.

1138.03. Permitted temporary uses.

(a) Temporary Trailers or Mobile Units.

(1) Used as Contractors' Offices and Equipment Sheds. Permitted in any district when erected accessory to a construction project or in conjunction with maintenance operations of an essential service as defined in Chapter 1102. No temporary use permit is required.

A. Shall be limited to a period not to exceed the duration of the active construction phase of such project.

(2) Used as Sales Offices. A temporary use permit is required for such a trailer in a residential district when erected accessory to a new residential development project.

A. Shall be limited to a period not to exceed the duration of the active construction phase of such project.

(3) Used as Temporary Classrooms. A temporary use permit is required for such a trailer in any district when it is erected accessory to principal use, or essential service as defined in Chapter 1102 of this code.

A. Shall be limited to a period not to exceed two (2) school years.

(b) Model Dwelling Units. A temporary use permit is required for a model dwelling unit in a residential district when such use is accessory to a new development. Model dwelling units shall be subject to the following restrictions:

(1) Location. Model dwelling units shall be permitted temporary uses in residential subdivisions in any district containing a residential component.

(2) Construction. Model dwelling units shall be constructed as permanent residential structures with the future intention to sell or lease said unit as a primary residence and shall not include temporary structures, trailers, or mobile units.

(3) Lighting. All exterior lighting shall comply with the exterior lighting standards set forth in Chapter 1124 of this code. All exterior lighting, except for standard residential security lighting, shall be extinguished when the model is closed.

(4) Landscaping and Screening. All model dwelling units shall be landscaped according to the requirements of Chapter 1121 for the district in which the model is located.

A. A landscape plan shall be submitted with the temporary use permit application and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot.

(5) Storage Prohibited. No building equipment or materials may be stored indoors or outdoors at the model home.

(6) Signs. Each model dwelling unit is permitted one (1) temporary ground sign, not to exceed sixteen (16) square feet. The sign shall not exceed five (5) feet in height from natural grade. The sign may be illuminated only with down lighting and no light source may be visible from adjoining properties. Lighting shall be extinguished when the model is closed.

(7) Hours of operation. To protect the character of the residential neighborhood, model dwelling units shall limit hours of operation to between 8:00 a.m. and 10:00 p.m.

(8) Parking. Additional parking may be required by the Director of Planning and Community Development and must adhere to all landscaping requirements set forth in Chapter 1121 of this code.

(9) Permit Termination. A temporary use permit for a model home shall be valid until building permits have been issued for ninety percent (90%) of the lots therein.

(c) Temporary Outdoor Sales, Displays, and Events. Permits may be granted for temporary outdoor sales, displays, and events on private property subject to the following:

(1) Up to Seven (7) Days in Duration. No permit shall be required for a temporary sale, display, or event that does not extend beyond seven (7) consecutive days, including set up and removal. Three (3) such occurrences are permitted within one (1) calendar year, and there must be at least seven (7) days between each.

(2) Up to Sixty (60) Days in Duration. A temporary use permit for a display or temporary sales of non-manufactured goods, for up to sixty (60) consecutive days may be granted by the Planning and Community Development Director, following review from all relevant departments. No applicant, whether property owner or tenant, may be issued more than one (1) permit per calendar year.

1138.04. Mobile food vendors.

(a) A mobile food vendor may be permitted on any non-residential property for up to forty-five (45) days in a calendar year provided that the mobile food vendor:

(1) Receives approval of a temporary use permit and a mobile food vendor license from the Planning and Community Development Department (except for food trucks catering solely to a private event with no public service).

(2) Does not offer any tables, seating, drive-thru, or drive-in service.

(3) Does not have any other signs than that which are permanently affixed to the mobile vending equipment.

(4) Provides a trash receptacle for use by customers and keeps the surrounding area free of trash and debris at all times.

(5) Maintains all equipment and vehicles free of rust, dents, peeling paint, and in good maintenance and appearance at all times.

(6) Obtains, displays, and keeps current all applicable health, food, safety, vehicle, vending, and other licenses.

(7) Is registered for tax purposes with the City of Delaware.

(8) Does not operate any equipment that creates excessive noise or violates section 509.10 Noise Ordinance of this Code.

1138.05. Keeping of certain animals.

(a) A temporary use permit may be issued for the outdoor keeping of certain small animals related to State approved Agricultural Society shows and competitions on lots whose principal use is a single-family dwelling. Lots whose principal use is other than a single-family dwelling are prohibited from obtaining this temporary use permit. Where permitted, this use is subject to the following regulations:

(1) The purpose of these regulations is to allow State of Ohio approved entities, such as Agricultural Societies and the State Fair, to fulfill their missions with respect to Junior Fair shows, exhibitions, or competitions. To that end, only animals that are part of a Junior Fair (or equivalent as defined by the Delaware County Agricultural Society) exhibition, fair, or show sanctioned, governed or sponsored by or under the control of an Ohio County Agricultural Society, the State fair, or Independent Agricultural Society organized under Chapter 1711 of the Ohio Revised Code and subject to the laws administered by and rules promulgated by the State of Ohio Department of Agriculture for such purposes are permitted under this section. There is no fee for Temporary Use Permits issued under this section.

(2) The only animals permitted under such temporary use are chickens, rabbits, hamsters, guinea pigs, and birds. Other small animals as defined by the appropriate department of a Junior Fair may be considered by the City if they are of the same general size, character, and habit as those listed above.

(3) Only six (6) such animals may be allowed on the lot any time, except for up to fifteen (15) rabbit kits or chicks, which may be kept for up to 90 days.

(4) Ordinary and customary household pets, such as but not limited to dogs and cats, are not subject to the rules and regulations of this section but may be subject to other State, County, and municipal regulations.

(5) Permitted animals under this section shall only be allowed for the documented time frame set out by the recognized group for the Junior Fair Show, exhibition, or competition, at which time the animals shall be completely removed from the premises so it is returned to the same condition as before the temporary use was initiated. Any accessory structures or appurtenances that were used for the keeping of animals shall be either removed completely OR moved completely inside the principal structure or previously approved accessory structure OR the property owner may apply to convert the structure to a conforming accessory structure as provided for elsewhere in the Zoning Code.

(6) Animals shall be housed completely within an accessory structure, allowed in the rear yard only as defined in the Zoning Code for the City of Delaware, must be set back from any property line a minimum of fifteen (15) feet, and shall be subject to all other Zoning Code regulations regarding such accessory structures.

(7) Structures shall have solid walls and roof as part of their design. Windows, doors, and vents are permitted. Structures must be constructed in a manner to resist access by rodents, wild birds, predators, pests, and the like.

(8) Outdoor runs or exercise areas of up to fifty (50) square feet shall be allowed as part of an accessory structure. An exercise area must be fully enclosed with fencing designed to keep the animals contained within the area and may include fencing and poultry mesh but shall not include razor or barbed wire and the like.

(9) Animal feed shall be either stored indoors or completely contained within a lockable, weather and rodent proof container.

(10) All areas must comply with Section 505.08 of the City of Delaware Code of Ordinances and be kept clean of waste and debris and shall be maintained in a sanitary condition at all times in a manner that does not create a nuisance or otherwise disturb the use or enjoyment of neighboring lots due to noise, odor, or other adverse impacts. If raising the animals causes a documented health condition to an immediately adjacent neighboring property owner, it may be cause for removal of the animals and revocation of the Temporary Use Permit.

(11) Prohibitions. The following shall be prohibited with regard to this Section:

A. Keeping of roosters.

B. Slaughtering of animals on the subject property.

C. Selling of eggs or animals or other related commercial activity on the subject property.

1138.06. Public sidewalk use and occupation.

(a) Allowed Activities on Public Sidewalks. Unless otherwise provided for in this Section, no person shall place, deposit or maintain any merchandise, goods, material, equipment, or displays upon any public right-of-way except as follows:

(1) The temporary placement of items for the purpose of delivery or pickup, except for the purposes of refuse collection, so long as such items shall not remain on the public sidewalk for more than one hour.

(2) The placement of news racks and drop-boxes in conformance with Chapter 539 of the Codified Ordinances.

(b) Special Community Events. The placement of items associated with special community events specifically approved by permit through the City Manager shall include, but not be limited to, the Arts Festival, Farmers Market, and Downtown Car Show. The City Manager shall establish the required application submittal requirements and approval policies and procedures. City Council shall establish the fee for said permit.

(c) Temporary Displays and Occupations in the Historic District Overlay. The temporary display and occupation of any public sidewalk in the Historic District Overlay, for purposes other than those set forth above, shall comply with the following:

(1) Permit Required. A permit for temporary displays and occupations of such items under circumstances other than those set forth above, including the placement of chairs or tables, shall require a permit to be approved by the City. The permit shall be valid for the minimum time period necessary for the intent and purpose of said permit and shall expire at the end of the calendar year in which the permit was issued. City Council shall establish a fee for such permit.

(2) An indemnity agreement must be submitted with the permit application. Such agreement shall provide that the applicant will hold the City and its officials and employees harmless of all liability which might arise as a result of injuries or damages suffered as a result of the use of the right-of-way as authorized by this section, and to fully indemnify the City, its officials and employees, in the event they are required to pay such losses must keep current liability insurance that the City requires. Any permit issued for purposes of this Section shall be revocable by the City at any time and for any reason.

(3) Requirements. All uses authorized by this section shall conform to the following requirements:

A. The use shall not have a substantial adverse impact on the use, enjoyment, or property values of adjoining properties.

B. A minimum five (5) feet of unobstructed area of sidewalk shall be maintained for pedestrian traffic.

C. Permit holder is responsible for ensuring that all activity stays within the approved area identified on the permit.

D. No merchandise display shall exceed six (6) feet in height.

E. No person shall unload upon, or transport any heavy merchandise, goods, material, or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury.

F. No person shall allow any cellar or trap door, coal chute, elevator, or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous conditions.

G. All cellar stairways that project into any street or sidewalk in the City, or that open in or near the line of any street, shall be guarded by a good and sufficient railing and shall be sufficiently lighted to protect the public. All other permanent openings in streets or sidewalks shall be protected by nonskid metal covers of necessary load bearing capacity as determined by the City.

H. No decorations, signage, or other items may be hung from any fences or enclosures within the public right-of-way with the exception of decorations associated with religious, national, or state holidays which are not intended to be permanent and planter boxes which do not encroach into the required five feet of clear pedestrian walkway and seasonal decorations.

(d) Limitations. Nothing in this Section shall be construed to prevent the City from unrestricted use of the public right-of-way for the purposes of public safety, public service, or the construction and maintenance of infrastructure and utilities, including private utilities placed in the public right-of-way.