

## 10-1-12: PROVISIONS APPLYING TO MISCELLANEOUS AND TEMPORARY AND TRANSIENT USES:

All miscellaneous and temporary uses as identified in this section shall be subject to the terms, regulations and conditions of this section as set forth hereafter. It shall be unlawful for any person or party to establish, maintain, operate or have a temporary use on property in the city of Nampa except in accordance and compliance with the following regulations:

B. Additional General Regulations Pertaining To Temporary Uses And/Or Their Establishment Or Operation: These regulations are in addition to (as applicable) and not in lieu of those specific standards in subsection A of this section.

### 1. Food/Beverage Sales:

- a. From A Temporary Structure: When conducted from a temporary structure, food preparation shall not entail any cooking process and/or equipment that generate(s) grease laden vapors unless the Nampa fire department certifies that the proposed cooking "setup" meets applicable requirements of the most current edition of the National Fire Protection Association regulations they enforce. "Grease laden vapors" are vapors containing rendered animal fat, vegetable shortening, and other such oily matter used for the purposes of and resulting from cooking and/or preparing foods.
  - b. Vehicles: As already previously stated, vehicles, as defined by this title, shall not be used as permanent (or effectually permanent) diners, eateries, restaurants, etc., in any location in the city.
  - c. Outdoor Eateries: Temporary outdoor eateries, unless used as an extension of a permanent restaurant (i.e., outdoor patio seating) or a fair, carnival, advertised sales promotions by permanent businesses and/or recognized civic event, shall not be allowed. Outdoor eateries are considered to be any business using seating, tables or some kind and/or some form of shelter (e.g., umbrellas, tents, canopy) to provide a place to eat outside. Drive-throughs associated with such businesses shall also be prohibited whether arranged on site or created by serving food to vehicles traveling along or pulling off of a street.
2. Hard Surface For A Base: Temporary uses shall be placed on a noncombustible surface (i.e., only gravel, concrete or asphalt) and must be at least twenty five feet (25') away from combustible materials (e.g., weeds patches, board fences and permanent structures).
  3. Property Owner's Permission: Written permission of the property owner(s) of a lot/parcel whereon a temporary use is proposed to be established and operated

shall be required to be submitted to the city in conjunction with any application for a temporary use permit in order for the city to entertain approving such a permit request.

4. Accessibility: Temporary uses shall provide adequate accessibility as required by ADA standards.
5. Sanitary Facilities: In those cases where sanitary facilities are not provided within a structure being used in conjunction with a temporary use, the applicant for a temporary use permit shall provide written evidence of an agreement between the proprietor/operator of the temporary use and the owner or property landlord of the lot/parcel whereon the temporary use is proposed to be located at the time of application for a temporary use permit that access to sanitary facilities will be made available to persons working in/at the temporary use via those facilities on site in a primary structure/use already located on the same site.
6. Number Allowed; Exception: No more than one temporary use shall be allowed/located on a property at a time unless one of the uses is a seasonal use or mobile food vendor use, in which case two (2) temporary uses may co-share a property for a limited time as defined in this section.
7. Temporary Uses As Principal Or Permanent Uses: No temporary use shall be allowed to occupy a vacant lot/parcel by itself (thus becoming, effectually, the primary/principal use of that property). No temporary use shall be allowed to remain established on or operate from a lot/parcel longer than the time periods allotted to said use by this section or by the terms and conditions of a temporary use permit issued to that use and its proprietor, whichever is more restrictive.
  - a. Structures under one hundred twenty (120) square feet used in conjunction with a temporary use (e.g., for sale of food/beverage products including, but not limited to, coffee shacks, smoothie shacks, snow cone shacks, etc.) shall be allowed to become permanent provided that they:
    - (1) Are an accessory structure to another principal structure on site; and
    - (2) A zoning certificate and a site design permit (if a drive-through is proposed, or, if the site area whereon the structure and its requisite parking are intended to be placed is not already paved) are applied for and granted by the city. Thus, in order to sanction their permanent establishment/emplacement a requisite paved parking and service drive area (in accordance with requirements found in chapter 22 of this title) must be provided to/for them (i.e., their employees and clientele).

Such uses not intended to be increased to over one hundred twenty (120) square feet and whose proprietors do not intend to make permanent, shall be removed after one hundred eighty (180) days of being emplaced on a property. Another

temporary use permit to allow more than one hundred eighty (180) days in the same calendar year shall not be allowed/granted ~~except through application and approval of a special exception permit.~~

b. Tent type structures shall:

- (1) Be able to resist wind up to seventy five (75) miles per hour; and
- (2) Be a wire supported suspension; and
- (3) Be water resistant; and
- (4) Be made out of quality and sturdy materials (e.g., 2 inch anodized aluminum, frame with galvanized connectors, 22 inch x 2 foot round concrete feet at 200 pounds each); and
- (5) Shall respect clear vision triangles and setbacks (as any other temporary use must also do). (Ord. 3960, 4-4-2011)

C. Regulation(s) Exceptions Allowances: The provisions of this section shall not apply to temporary uses including:

1. Any sales conducted under special court order;
2. Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to or solicit orders for delivery, from local retailers, local businesses, local governments, local schools, or local wholesale firms;
3. The sale of farm or garden products at a farmers' market event or the operation of a farmers' market itself;
4. The sale of newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
5. The occasional sale of admission by local school students to a function of their school or fundraising sales by local service groups or clubs such as Elks, Kiwanis, Lions, Rotary or Boy or Girl Scouts;
6. Any political group seeking funds or membership, conducting a political rally or election activity;
7. Garage, yard or similar sales lawfully conducted by individuals at their residence or place of business (such sales are regulated in part by this code);

8. Private community center events. Such shall include craft and art shows, meetings, exhibitions and similar events;
9. Any activity conducted as a "special event" as sponsored and so identified by the city of Nampa;
10. Curbside lemonade stand(s) operated by persons under the age of eighteen (18) years in front of their own residence using a few chairs, a table and supplies;
11. Charitable/benefit car wash(es), bake and rummage sales, onetime annual events on a single lot/parcel for no longer than seven (7) days' duration from said person as conducted only by churches, recognized 501(c)(3) nonprofit organizations, service clubs, schools or ancillaries thereto for the purpose of fundraising;
12. Idaho Youth Games;
13. Events conducted at the parks of the city or at the Idaho Center including equestrian events and concerts;
14. God And Country Rally;
15. Weddings and funeral ceremonies conducted at churches, cemeteries, private facilities and residences;
16. On premises sales of garden produce;
17. Any uses similar to the afore~~l~~isted as approved/exempted by the director or his/her designee not to include those uses listed in subsection A of this section. (Ord. 4010, 3-19-2012)

D. Director Or Designee Discretion In Imposing Additional Approval Conditions Or Classifying A Proposed Temporary Use Not Identified Herein As Similar To Another Temporary Use Identified Herein And Regulating The Same: Where discretion is exercised by the director or his/her designee to determine whether a given proposed temporary use operation should be treated/regulated as equivalent to one of the types specifically recognized and categorized by this title, no allowance shall be made for the establishment or operation of such uses from properties within the city which, in order to be operated permanently from the same site, would be required to first obtain a conditional use permit (e.g., conditional use permit) from the city's planning and zoning commission or from the city council (e.g., via a special exception permit).

#### 10-2-5: DEVELOPMENT AGREEMENTS:

In accordance with the notice and hearing procedures described in subsection 10-2-3B of this chapter, a property owner or developer may request, or the city may require, that an application for rezone or zoning map amendment be processed in conjunction with the execution of a development agreement. Through such agreements, a property owner or developer may agree to make written conditional commitments concerning the use or development of a subject parcel in exchange for the change of zoning requested. The purpose of such agreements shall be to allow development that provides benefits for both the property owner or developer and the city by providing a balance between the owner's or developer's desire for certainty in the development process and the city's desire for control of the impacts of the project.

Conditional commitments made under such agreements are in addition to the regulations provided for in the zoning district by ordinance, and are established to ensure compatibility of the resulting land use with the surrounding area. Unless multiple land use zones are used/applied within a project in accordance with that which is allowed by the table at section 10-3-2 of this title, the use of a PUD or a special exception permit process shall be the only means whereby the city of Nampa will/shall entertain allowing uses in a zone not normally allowed therein; development agreement conditions not excepting. The following rules shall govern development agreements:

### **Chapter 3**

## **ESTABLISHMENT OF DISTRICTS AND PROVISIONS FOR NONCONFORMING USES**

### **10-3-1: ESTABLISHMENT AND DESIGNATION OF USE DISTRICTS:**

### **10-3-2: SCHEDULE OF DISTRICT/ZONE LAND USE CONTROLS:**

### **10-3-3: PUD SUBDISTRICTS:**

### **10-3-4: ESTABLISHMENT OF DISTRICTS BY MAP AND ADOPTION OF MAP:**

### **10-3-5: SPLIT ZONING OF A LOT/PARCEL:**

### **10-3-6: CHANGES IN BOUNDARIES:**

### **10-3-7: UNCERTAINTY OF DISTRICT BOUNDARIES:**

**10-3-8: ZONING OF ANNEXED AREAS:**

**10-3-9: NONCONFORMING USES:**

**10-3-1: ESTABLISHMENT AND DESIGNATION OF USE DISTRICTS:**

The following use districts are established and shall apply to and govern the use, maintenance or development of any land in the city:

<b><u>Use Districts</u></b>	
GB	Gateway business
U	University
AG	Agricultural
RA	Suburban residential
RS	Single-family residential
RD	Two-family (duplex) residential
RML	Limited multiple-family residential
RMH	Multiple-family residential
RP	Residential professional
BN	Neighborhood business
DB, DV, DH	Downtown
BC	Community business
BF	Freeway business
IP	Industrial park
IL	Light industrial
IH	Heavy industrial

(Ord. 3805, 7-21-2008)

## 10-3-2: SCHEDULE OF DISTRICT/ZONE LAND USE CONTROLS:

District land use controls shall be as set forth in the succeeding schedule.

A. Determining Where Uses Are Allowed: To determine in which district a specific use is allowed:

1. Find the use in one of the groups.
2. Read across the schedule until either a P or C appears.
3. If a P appears, the use is a permitted use; if a C appears the use is only allowed upon the issuance of a conditional use permit in accordance with the provisions of chapter 25 of this title.
4. If a P or C does not appear under a district that use is not allowed in that district.
5. Review notes to determine exceptions, requirements and conditions for various uses.

B. Unlisted Land Uses: The director or his/her designee shall interpret the appropriate district for land uses not specifically listed by determining the district in which similar uses are permitted. Such other similar uses shall not be inconsistent with the purpose of the district, shall not impair the present or potential use of properties in the surrounding areas and shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the specifically listed buildings and uses. When several combined uses exist, or are proposed, the most intensive shall be considered as the primary activity.

Where a use is ~~proposed not authorized or where no other similar uses are listed~~ and ambiguity exists concerning the appropriate district or procedure for the establishment of ~~a that particularly proposed particular~~ use, said use may be established by ~~obtainment of a~~ conditional use permit in accordance with the provisions of chapter 25 of this title until such time as this section is amended to specifically include such use. ~~Alternatively, application may be made for a special exception although transfers shall comply with subsection 10-25-16F of this title.~~ (Ord. 4010, 3-19-2012)

## 10-24-1: PURPOSE:

A variance is a modification of quantifiable/measurable requirements imposed by

this title (e.g., lot/parcel: size, width, depth, frontage required; structure heights; parking space dimensions/quantities; setbacks; sign dimensions/height; number of signs allowed; fence height; etc.). All variances shall be approved by the city council in order to be considered valid and in force. A variance shall not have the effect of allowing a use not otherwise allowed or conditionally allowed by chapter 3 of this title ~~save as may be approved by and through issuance of a special exception permit.~~

The council is empowered to grant variances in order to prevent or to lessen practical development difficulties, unique site circumstances and unnecessary physical, geographical hardships inconsistent with the objectives of zoning as would result from a literal interpretation and enforcement of certain of the placement, bulk or quantifiable regulations prescribed by this title.

A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of: a) special characteristics applicable to the site which deprive it of privileges commonly enjoyed by other properties in the same zone or vicinity, and b) the variance is not in conflict with the public interest. Hardships must result from special site characteristics relating to the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions, or from population densities, street locations or traffic conditions or other unique circumstances.

Variances are not intended to allow something that others do not have a permitted right to do. The purpose of a variance is to provide fair treatment and to see that individuals are not penalized because of site characteristics beyond their control. (Ord. 3805, 7-21-2008)

## **Chapter 25**

### **CONDITIONAL USE PERMIT**

#### **10-25-1: DESCRIPTION AND PURPOSE:**

#### **10-25-2: USE PERMIT PREREQUISITE TO BUILDING:**

#### **10-25-3: APPLICATIONS:**

#### **10-25-4: GENERAL USE PERMIT CRITERIA:**

#### **10-25-5: INVESTIGATION:**

#### **10-25-6: CONDITIONAL USE PUBLIC HEARINGS:**



**10-25-7: ACTION BY COMMISSION:**

**10-25-8: CONDITIONS:**

**10-25-9: EFFECTIVE DATE:**

**10-25-10: APPEALS AND FEE:**

**10-25-11: ADHERENCE TO APPROVED PLAN:**

**10-25-12: REVOCATION:**

**10-25-13: ACTION ON APPEALS BY COUNCIL:**

**10-25-14: HEARING PROCEDURES FOR CUPS AFFILIATED WITH  
APPLICATION FOR PUDS:**

**10-25-15: CONDITIONAL USE EXPANSIONS AND MODIFICATIONS:**