

ORDINANCE NO. 2020-O-051

AN ORDINANCE OF THE CITY OF ATHENS, TEXAS, REPEALING AND REPLACING IN ITS ENTIRETY SECTION 31A OF THE ZONING ORDINANCE, ENTITLED TEMPORARY USE PERMITS, OF THE CITY CODE OF ORDINANCES

WHEREAS, on February 22, 2016, the City of Athens approved Ordinance O-10-16 establishing rules and regulations for temporary use events;

WHEREAS, upon the recommendation of the Planning and Zoning Commission, the City Council desires to update the rules and regulations for temporary use events and provide rules and regulations for temporary structures;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS:

That the Section 31A of the Zoning Ordinance of the City of Athens, Texas is repealed in its entirety and replaced as shown below. For clarity, new text is shown in italics.

(Repeal the existing Section 31A of the Zoning Ordinance and replace with the text below.)

SECTION 31A - TEMPORARY USE PERMIT

The Department of Development Services may issue a permit for a temporary event or temporary structure under the conditions and for the time specified in accordance with this section, provided that the temporary use does not constitute a nuisance for adjacent properties.

31A.1 Temporary events.

- 1. Number of permits and duration. Unless stated otherwise herein, a business or property owner may receive during any calendar year no more than two temporary use permits, or no more than one temporary use permit and one renewal of said permit for a specific property upon making application, after paying the required fee and receiving approval of the Director of Development Services (Director).*
- 2. Application.*
 - a. Unless otherwise determined by the Director, an application for a temporary event permit must be submitted with the following information:*
 - i. A written letter of approval from the property owner indicating the applicant has the right to use such property for the temporary use described in the application.*
 - ii. A site plan of the property showing:*

1. *Property boundaries.*
 2. *Building footprint of permanent structures and paved parking lot, if applicable.*
 3. *Location of all fire lanes, driveways, sidewalks and/or alleys.*
 4. *Location of merchandise, display areas, and temporary structures including tents, canopies or shelters.*
 5. *Fire rating documentation for any temporary tent, canopy or shelter to be used during the event.*
 6. *The number of displaced parking spaces, if any, and the number of remaining parking spaces.*
 7. *Location of temporary lighting or security lighting, if any.*
 8. *Size and location of any temporary signage, pennants, or banners.*
 9. *Location of restrooms that will be available for use by the public during the event for which the permit is to be issued.*
 10. *A description of the temporary event activities, requested days, and hours of operation.*
 11. *Contact information for the applicant and/or organization operating the event and contact information for a representative that will be on site during the event.*
 12. *Information regarding any temporary mobile food vendors, and/or any food or drink preparation, sales or sampling that may be on site in conjunction with the event.*
- iii. Charitable, religious, educational, public service, and/or civic organizations are exempt from all fees to be collected pursuant to this section.*

b. Additional requirements.

- i. No parking space required by this Code or other ordinance shall be used for a temporary event permit.*
- ii. All temporary lighting will require an electrical permit and an inspection by the city building inspector prior to the event. No lighting may flash, travel, blink, fade, move, or scroll.*
- iii. The minimum number of restrooms as required by the current, adopted version of the International Building Code shall be provided. Temporary restrooms and/or on-site restrooms shall be allowed with the approval of the property owner and business owner whose restrooms will be used.*

- iv. *The preparation, sale and/or sampling of any food and/or drinks shall comply with all applicable provisions of the current Code of Ordinances and any other applicable codes including, but not limited to, the issuance of any required health permit.*
 - v. *The use of a temporary tent, canopy, or shelter, made of cloth, plastic, canvas or similar material, shall comply with requirements of Chapter 31 of the International Fire Code, as amended. The application submittal shall include fire rating certificate documentation to be reviewed and approved by the Fire Marshal.*
 - vi. *No event receiving a temporary use permit shall locate in an approved landscape buffer or within the setbacks required in the Zoning Ordinance.*
3. *Decommission or removal. The site shall be vacated completely and cleaned at the end of the event and prior to the issuance of new temporary use permits for the same property.*
4. *Types of temporary events.*
- a. *Seasonal sales. Temporary sales of seasonal products such as firewood, plants, fruits, vegetables, and similar items or products may be allowed during their normal and generally accepted season and for a period of time not to exceed 30 consecutive days, and subject to the following provisions:*
 - i. *Issuance of permits for temporary outdoor sales of seasonal products shall be limited to areas zoned for retail or commercial uses.*
 - ii. *Where an existing business is operating in accordance with a certificate of occupancy, the area for display shall be no more than 200 square feet, being generally square or rectangular in shape, with a maximum length of 25 feet and a minimum width of eight feet. Examples would be ten feet by 20 feet, or eight feet by 25 feet.*
 - iii. *This section does not apply to temporary outdoor services such as mobile blood banks, mammography screening, eye screening, or similar medical services for humans.*
 - iv. *An application for a temporary event shall also include a true copy of the sales tax permit which designates the City as point of sale.*
 - v. *Temporary sales of fruits and vegetables for off-premises consumption shall be allowed; however, the products must remain whole, and not be cut or opened in any manner.*
 - vi. *All Farmers Markets shall be authorized by the City Council. Council approval shall address the location, schedule and duration of the market.*

- b. *Christmas tree sales. Temporary sales of Christmas trees may be allowed during the normal and generally accepted season, and subject to the following provisions:*
 - i. *Issuance of permits for temporary outdoor sales of Christmas trees shall be limited to areas zoned for retail or commercial uses, or any church property.*
 - ii. *Sales may not begin prior to November 15.*
 - iii. *Sale site must be cleaned and vacated by January 1.*
 - iv. *The application for a temporary use permit shall also include a true copy of the sales tax permit which designates the City as point of sale.*
- c. *Carnival, circus, fair, or festival. Such temporary events may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances, and subject to the following provisions.*
 - i. *The term of a temporary event permit for a carnival, circus, fair, or festival shall not exceed a maximum of seven days.*
 - ii. *Issuance of permits for a carnival, circus, fair or festival shall be limited to areas zoned for retail or commercial uses, or any church property.*
- d. *Temporary event. Sporting events, philanthropic or religious events, community garage sales for charities, general community events and similar activities may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances. Parking lot sales may be allowed for the existing businesses holding a certificate of occupancy for the site.*
 - i. *Issuance of a permit for a temporary event pursuant to this paragraph shall be limited to areas zoned for retail or commercial uses, or any church property.*
 - ii. *The term of a temporary use permit issued pursuant to this paragraph for a temporary event shall not exceed three days.*
- e. *Temporary food vendor. A mobile food unit, as defined in Chapter 13, Article VI of the Code of Ordinances may operate as a temporary food vendor as follows:*
 - i. *Mobile food units may be permitted to operate in association with temporary event permits issued for seasonal sales, Christmas tree sales, carnivals, circuses, fairs, festivals, or temporary events. The temporary food vendor information shall be submitted with the corresponding temporary event permit application and shall include a copy of any required health permits. A separate temporary event permit for the mobile food unit is not required if operating in conjunction with a permitted temporary event. The corresponding temporary event permit must be*

secured prior to the mobile food unit commencing the preparation or sale of any food on the property.

- ii. Mobile food units not operating in conjunction with a permitted temporary event shall be regulated in accordance with Chapter 13, Article VI of the Code of Ordinances.*
- f. Other temporary events. A temporary event permit may be granted for similar temporary uses not listed in this section upon approval of the City Manager, provided the event conforms to all other provisions of this Code and the Code of Ordinances.*
- g. Variance. A variance for the timeframe of operation may be approved by the City Council for any of the temporary uses listed above or similar uses not listed. All of the surrounding property owners within 200 hundred feet shall be notified of the variance application and shall be given the opportunity to make their views known to the City Council. If the variance is approved, a temporary event permit shall be issued for the duration of the event not to exceed the timeline approved by City Council. The temporary event shall conform to all other provisions of this Code and the Code of Ordinances.*

31A.2 Temporary buildings.

- 1. Application. Unless otherwise determined by the Director, an application for a temporary building must be submitted with the following information:*
 - a. A site plan of the property, as described in section 31A.1.*
 - b. A description of the temporary building and any applicable engineering, building, plumbing, electrical and/or mechanical plans.*
 - c. Additional requirements.*
 - i. No temporary structure shall occupy any parking space required by this Code or other ordinance.*
 - ii. All temporary lighting will require an electrical permit and an inspection by the city building inspector prior to the event. No lighting may flash, travel, blink, fade, move, or scroll.*
 - iii. Temporary restroom facilities shall be allowed with the approval of the property owner. The minimum number of restroom facilities as required by the current, adopted version of the International Building Code shall be provided.*
 - iv. The use of a temporary tent, canopy, or shelter, made of cloth, plastic, canvas or similar material, shall comply with requirements of Chapter 31*

of the International Fire Code, as amended. The application submittal shall include fire rating certificate documentation to be reviewed and approved by the Fire Marshal.

- v. No temporary structure shall locate in an approved landscape buffer or within the setbacks outlined in the Zoning Ordinance.*

2. Types of temporary buildings.

- a. Temporary construction office building. A temporary building may be used as a construction office if it is located within the same property, contains no living quarters, and provides for only uses incidental to construction on the premises. Such building shall be removed within 10 days following the final inspection of the construction permit by the City. Additional temporary construction office buildings and storage trailers may be allowed in nonresidential zoning districts with the approval of the Director.*
- b. Temporary warehousing or storage structure. A temporary structure may be used as a warehousing or storage area if it is located within the same property, contains no living quarters, and provides for only uses incidental to construction on the premises or clean-up of premises after a fire, natural disaster, or similar event. Such structure shall be removed within 10 days following the final inspection of the construction activity by the City or the closure of the clean-up activities. Additional temporary structures may be allowed in nonresidential zoning areas with the approval of the Director.*
- c. Temporary residential subdivision sales office. A temporary sales office may be located within an approved residential subdivision. This office should be used for display purposes in order to enhance the sales of residential structures within the subdivision. No more than one sales office shall be allowed for any one builder in any subdivision. Such temporary use shall be allowed for a period of one year, with extensions of not more than six months upon application and approval, provided the builder has unsold lots remaining in the subdivision and the office continues to be in use and properly maintained.*
- d. Church or school temporary accessory buildings. Temporary accessory buildings for church and public or private school use are subject to the following conditions:*
 - i. Temporary accessory buildings for church, private or public-school use constructed of alternate exterior building materials are allowed by permit by the Director for a maximum of 24 months. Thereafter, the permit may be renewed by the City Council on an annual basis for additional periods*

of 12 months each if active preparation and/or efforts have or are being taken in completion of the development which necessitated the temporary accessory buildings.

- ii. The Director may approve an alternate exterior building material if of noncombustible construction and in accordance with the city's building code and fire prevention code. Metal exterior walls shall be compatible in color with the principal building and existing surrounding structures. If the walls are metal, the use of corrugated panels is prohibited; profile panels, deep ribbed panels and concealed facing systems are permitted. Exterior finish for metal walls fronting or siding a public street shall be of a permanent material such as baked or enamel finish or painted to the wall manufacture standards. The use of galvanized, corrugated aluminum coated, zinc-aluminum coated, or unpainted exterior metal finish is prohibited.*
- iii. The temporary accessory building shall be removed prior to the end of the period when such building is allowed under this section.*
- iv. Not more than three temporary accessory buildings shall be allowed on the same site, lot or tract of land for church or private school use.*
- v. Temporary accessory buildings shall not exceed 840 square feet in size and one story in height; except 1,792 square feet shall be allowed for public schools.*
- vi. Temporary accessory buildings shall meet the area regulations of the zoning district in which located.*
- vii. Temporary accessory buildings are not permitted without a main structure on the same site, lot or tract.*
- viii. Each temporary accessory building shall be constructed in such a manner that it shall be portable, easily transportable, and capable of being moved. The Director shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated by the proposed use; health and sanitary conditions; and compliance with other regulations within this Code or the Code of Ordinances. The Director shall have the right to revoke any temporary use permit at any time or to deny any extension upon finding that a hazard or nuisance shall exist by continuing such use; after which revocation or denial such temporary use shall immediately cease and shall be removed within ten days of notification of such finding.*

First reading this the 8th day of June 2020.

PASSED, APPROVED and ADOPTED this the **22nd** day of **July 2020** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Monte Montgomery, Mayor	Aye
Ed McCain, Councilmember/Mayor Pro Tem	Aye
Aaron Smith, Councilmember	Aye
Toni Clay, Councilmember	Aye
Robert Gross, Councilmember	Aye

voted in favor of the motion	5
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voted against the motion	0
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Motion carried	5-0
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Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary