

Temporary Uses

any damage resulting to any public right-of-way as a result of the event.

Sec. 34-3042. Carnivals, fairs, circuses, and amusement devices.

(a) *Location of amusement devices and other structures.* Refer to § 34-2142(a) and (b) for setback requirements.

(b) *Off-street parking.* Refer to § 34-2020(d)(3)g. for off-street parking requirements.

(c) *Hours of operation.* The hours of operation shall be limited to 10:00 A.M. to 10:00 P.M., unless otherwise extended by the director in writing.

(d) *Special event permit.* In addition to a temporary use permit, a carnival, fair, circus, or amusement device, or other event may be subject to the provisions of the town's special events ordinance, No. 98-01 as amended (see also division 34 of this article).

Sec. 34-3043. Christmas tree sales.

(a) Christmas tree sales may be permitted in any commercial district, provided that:

- (1) No parking lot required for another use shall be used for display of trees; and
- (2) Temporary off-street parking for at least five vehicles shall be provided utilizing an existing or approved parking lot entrance or driveway.

(b) The maximum length of time for display and open-lot sales shall be 45 days.

Sec. 34-3044. Temporary contractor's office and equipment storage shed.

A contractor's office or construction equipment shed may be permitted in any district where use is incidental to an ongoing construction project with an active building permit or development order. Such office or shed shall not contain sleeping or cooking accommodations. The contractor's office and construction shed shall be removed within 30 days of the date of final inspection for the project.

Sec. 34-3045. Alcoholic beverages.

Temporary one-day permits for the service of alcoholic beverages may be permitted in accordance with § 34-1264(d)

Sec. 34-3046. Temporary use of mobile home.

(a) *Rehabilitation or construction of residence following disaster.*

- (1) When fire or disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home or recreational vehicle located on the single-family lot during rehabilitation of the original residence or construction of a new residence may be permitted subject to the regulations set out in this section.
- (2) The maximum duration of the use shall be 18 months after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, the maximum duration of the use is 6 months. The director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the control of the owner. Application for an extension shall be made prior to expiration of the original permit.

(b) *Rehabilitation or construction of damaged business or commercial uses following disaster.*

- (1) Business or commercial uses damaged by a major or catastrophic disaster that are necessary for the public health and safety or that will aid in restoring the community's economic base may be permitted to use a mobile home or similar type structure to carry out their activities until the damaged structure(s) is rebuilt or replaced according to applicable development or redevelopment regulations.
- (2) The maximum duration of the temporary use is 9 months after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, the maximum duration of the use is 6 months. The director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the control of the

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owner. Application for an extension shall be made prior to expiration of the original permit.

(c) **Conditions for use.**

- (1) Required water and sanitary facilities must be provided.
- (2) The mobile home or recreational vehicle shall be removed from the property within ten days after the certificate of occupancy is issued for the new or rehabilitated residence, business, or commercial use, or upon expiration of the temporary use permit, whichever occurs first.

Sec. 34-3047. Temporary telephone distribution equipment.

Telephone distribution equipment may be granted a temporary use permit during planning and construction of permanent facilities, provided that:

- (1) The equipment is less than six feet in height and 300 cubic feet in volume; and
- (2) The maximum length of the use shall be six months, but the director may extend the permit once for a period not to exceed six additional months in the event of circumstances beyond the control of the telephone company. Application for an extension shall be made at least 15 days prior to expiration of the original permit.

Sec. 34-3048. Ancillary temporary uses in parking lots.

(a) The following ancillary temporary uses may be permitted in parking lots upon application and issuance of a temporary use permit (see § 34-3050):

- (1) Seasonal promotions.
- (2) Sidewalk or parking lot sales.
- (3) Fairs and carnivals (see § 34-3042).
- (4) Tent sales.
- (5) Flea markets by nonprofit organizations.
- (6) Welcome stations in accordance with § 34-3051.

(b) In approving a temporary use permit, the director shall require that the area of the lot to be used is clearly defined and that the use will not obstruct pedestrian and vehicular movements to portions of the lot not so used.

Sec. 34-3049. Seasonal parking lots.

Seasonal parking lots may be permitted in commercial zoning districts, provided that they are in compliance with § 34-2022.

Sec. 34-3050. Temporary use permits.

(a) **Applicability.** Any person desiring to conduct any of the temporary uses described in this subdivision shall be required to submit an application for a temporary use permit.

(b) **Initiation of application.** An application for a temporary use permit may be initiated by the town or any individual authorized in accordance with § 34-201(a).

(c) **Submission of application.**

- (1) No application shall be accepted unless it is presented on the official forms provided by the director.
- (2) Before an application may be accepted, it must fully comply with all information requirements enumerated in the application form as well as the requirements set forth in subsection (d) of this section.
- (3) The applicant shall ensure that an application is accurate and complete. Any additional expenses necessitated because of any inaccurate or incomplete information submitted shall be borne by the applicant.

(d) **Additional required information.** In addition to the application information, the applicant shall submit satisfactory evidence of the following:

- (1) Evidence shall be submitted that adequate sanitary facilities meeting the approval of the county health department are provided.
- (2) Evidence shall be submitted that sounds emanating from the temporary use shall not adversely affect any surrounding property.
- (3) Evidence shall be submitted that all requirements as to providing sufficient parking and loading space are assured.
- (4) When deemed necessary, a bond shall be posted, in addition to an agreement with a responsible person sufficient to guarantee that the ground area used during the conduct

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of the activity is restored to a condition acceptable to the director.

- (5) All applications for temporary use permits, excluding those for the temporary use of mobile homes following a natural disaster (see § 34-3046), shall provide public liability and property damage insurance. This requirement may be waived by the town council.
- (6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with town ordinances pertaining to special events, including Ordinances No. 98-1, 00-16, and any later amendments (see also division 34 of this article).
- (7) Evidence shall be submitted that the law enforcement and fire agencies who will be coordinating traffic control or emergency services have been advised of the plans for a temporary use and that they are satisfied with all aspects under their jurisdiction.

(e) **Inspection following expiration of permit; refund of bonds.** Upon expiration of the temporary use permit, the director shall inspect the premises to ensure that the grounds have been cleared of all signs and debris resulting from the temporary use and shall inspect the public right-of-way for damages caused by the temporary use. Within 45 days after a satisfactory inspection report is filed, the director shall process a refund of the bonds. An unsatisfactory inspection report shall be sufficient grounds for the town to retain all or part of the bonds posted to cover the costs which the town would incur for cleanup or repairs.

Sec. 34-3051. Temporary welcome stations.

(a) **Defined.** Temporary welcome stations are located in a mobile vehicle, either self-propelled or otherwise readily moveable from place to place, and are operated by a non-profit organization. Welcome stations are intended to promote community businesses and organizations and are therefore limited to providing information without the sale or distribution of any product or service. Welcome stations may not collect food or clothing or accept other donations.

(b) **Type of approval.**

(1) **Administrative**

- a. **Length of Permit.** A temporary use permit may be issued for a maximum of 90 days or less, and may not be renewed or reissued to the same applicant or on the same premises for a period of 6 months from the date of expiration of the previous permit. An organization may request an annual permit to operate no more than 6 months during any 1-year period. The 6 months may be consecutive or divided into 2-, 3-, or 4-month periods. No more than 2 welcome stations may be operating at one time.
- b. **Location.** Temporary welcome stations may be located in existing parking lots on property zoned commercial. The welcome station must be ancillary to the principal use and the required number of parking spaces for the principal use must be maintained.
- c. **Permit requirements.** In addition to the requirements found in § 34-3050, organizations must provide a photograph of the welcome station and its dimensions, the dates and corresponding locations where the welcome station will be operating, daily hours of operation for a minimum of 5 days per week, and a site plan of the parking lot, drawn to scale with the location of existing parking spaces and the welcome station. Each welcome station is permitted one 24-square-foot identification sign, mounted on the welcome station, which should be shown in the required photograph.
- d. **Review of permit.** The director will approve or deny the application, in part or whole, based on the welcome station's consistency with the standards established for outdoor display of merchandise and compatibility with surrounding uses. The welcome station must be maintained in good condition, consistent with the photograph submitted with the application. Failure to comply with the minimum hours of operation provided may result in revocation of the temporary use permit.

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- e. *Emergency Evacuation.* Mobile welcome stations must be removed from the county or placed within an approved off-site storage area within 48 hours of the issuance of a hurricane watch for the town by the National Hurricane Center.
- (2) **Special Exception**
- a. *Length of Approval.* Temporary welcome stations may be approved for longer periods of time by receiving a special exception. A special exception approval may include a specific length of time the approval is in effect.
- b. *Application requirements.* Applications must comply with article II, division 4 of this chapter, including § 34-203(d) special exceptions. The director may waive § 34-201(b)(1) which requires all properties to be abutting or have a rational continuity. Non-abutting properties must meet the location requirements established in this section. If the request involves multiple parcels, applications must include a surrounding property owners list and map for all property owners within 300 feet, including individual condominium owners.
- c. *Location.* The request may include multiple, non-abutting properties. Welcome stations may be approved on property zoned commercial, in existing commercial parking lots, or in the parking lot of an existing principal use. Where the station is an ancillary use, the required number of parking spaces for the principal use must be maintained.
- d. *Standards for approval.* In addition to the considerations for special exceptions found in § 34-88, requests must meet the following performance and locational standards:
1. Welcome stations must remain at an approved location a minimum of 30 days before moving to a different approved location.
 2. Welcome stations must operate a minimum of 5 days per week, 4 hours per day.
3. Each welcome station is permitted one 24-square-foot identification sign, mounted on the welcome center.
 4. Welcome stations must be able to be removed from the county or placed within an approved off-site storage area within 48 hours of the issuance of a hurricane watch for the town by the National Hurricane Center.

Secs. 34-3052--34-3054. Reserved.

Subdivision III. Special Events

Sec. 34-3055. Special events.

(a) A special event is any social, commercial, or fraternal gathering for the purpose of entertaining, instructing, viewing a competition, or for any other reason that would assemble an unusual concentration of people in one location.

(b) See division 34 of this chapter for a summary of permitting rules for special events.

Secs. 34-3056--34-3060. Reserved.

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DIVISION 38. TALL STRUCTURES

Sec. 34-3061. Permit for tall structures.

(a) Any construction or alteration of a greater height than 125 feet above mean sea level shall require a tall structures permit. An applicant is required to obtain a tall structures permit prior to the issuance of any further development orders or permits.

(b) Applications for a tall structures permit shall include the height and location of derricks, draglines, cranes, and other boom-equipped machinery, if such machinery is to be used during construction.

- (1) Applicants intending to use derricks, draglines, cranes, and other boom-equipped machinery for such construction, reconstruction, or alteration as is consistent with the provisions of this division shall, when the machine operating height exceeds the height limitations imposed by this division, require a tall structures permit.
- (2) Upon obtaining this permit through the procedures outlined in this section, the applicant shall mark, or mark and light, the machine to reflect conformity with the Federal Aviation Administration's or the county port authority's standards for marking and lighting obstructions, whichever is more restrictive, and shall be required in such cases to inform the county port authority, through this tall structures permit process, of the location, height, and time of operation for such construction equipment use prior to the issuance of any construction permit to the applicant.

(c) The permitting procedures for a tall structures permit are outlined as follows. If a tall structures permit application is deemed necessary by the director, the following procedures shall apply:

- (1) The director shall give a written notice to the applicant that a tall structures permit is required and that no further permits or development orders can be issued until a tall structures permit is obtained.
- (2) The applicant shall then submit a completed tall structures permit application to the Lee County Port Authority, 16000 Chamberlin Parkway, Ft. Myers, Florida 33913. The

county port authority shall review the application, and the following procedures will apply:

- a. If the county port authority determines that the proposed construction or alteration represented in the application does not violate the provisions of Federal Aviation Regulations, part 77, or the provisions of this division or any other application of federal or state rules and regulations or does not adversely affect the airspace surrounding any county airport, the port authority shall indicate such determination on the tall structures permit application. The signed tall structures permit application will then be returned to the applicant. The applicant shall present the tall structures permit application to the administrative director in order that a tall structures permit may be issued. If the signed tall structures permit application is accompanied with stipulations of compliance as determined by the county port authority, it is the responsibility of the administrative director to ensure that these stipulations are adequately addressed prior to the issuance of a tall structures permit.
- b. If the county port authority determines that the proposed construction or alteration violates the notification criteria of Federal Aviation Regulations, part 77, or otherwise violates any provisions of this division or any other applicable federal or state rules or regulations, the county port authority will notify the applicant in writing that the proposed construction or alteration may adversely affect the airspace surrounding county airports and require that a notice of proposed construction or alteration be filed with the Federal Aviation Administration for review through the submittal of Federal Aviation Administration Form 7460-1 as required by Federal Aviation Regulations, part 77. The county port authority shall suspend the tall structures permit application process until Federal Aviation Administration findings of aeronautical effect are received and reviewed.
- c. It is the responsibility of the applicant to forward the Federal Aviation Administration's findings of aeronautical effect, along with a copy of the completed original Federal Aviation Administration