

Mapleton City Council Staff Report

Meeting Date: September 3, 2013

Applicant: Mapleton City

Prepared by: Brian Tucker, Planner

Public Hearing Item: Yes

Zone: All

Description: Consideration of an ordinance amending Mapleton City Code Chapter 18.22 related to uses of land or buildings that are temporary in nature and are therefore not listed as regular permitted or conditional uses in any zone of the city.

BACKGROUND

Many communities, including Mapleton, have ordinances that allow the use of land or buildings for temporary uses. These uses are not listed as permitted or conditional uses but may be appropriate as accessory uses to a primary use allowed within a zoning district, on a temporary or seasonal basis.

Mapleton's current temporary use ordinance was adopted in 2003, with minor revisions in 2008. The current ordinance allows Christmas tree lots, retail/wholesale nursery supplies, shaved ice stands, promotional displays, fruit and vegetable stands, tents for religious services, political rallies etc.

PROJECT DESCRIPTION

The proposed ordinance includes the following:

- Exempts yard and garage sales from permitting but restricts them to a total of 5 calendar days per year.
- Exempts uses and sales related to events sponsored by Mapleton City and are approved as accessory uses to the event.
- Removes the specific dates that shaved ice and fruit/vegetable stands are allowed and instead allows one period of up to 150 days per year so that the business owner can choose the best period of use while ensuring that temporary uses continue to be temporary in nature.
- Allows Fruit and vegetable stands on the same land where the produce is grown in the A-2 zone.
- Seasonal sales of Christmas trees, pumpkins and fireworks are allowed in commercial zones, limited to one thirty day period per year per category.
- Requires a more detailed site plan be submitted with the application to ensure that parking, circulation, and seating areas do not cause conflicts with existing interior and exterior parking and traffic patterns and needs.
- Removes redundant language and references to specific dollar amounts for fees. Refers to the adopted fee schedule, which is adopted yearly by resolution.
- Specifies the Community Development Director or designee as the approving authority.
- Allows temporary construction trailers and temporary sales offices during the period of construction or active on site sales respectively.
- Modifies language that allows temporary concrete batch plants. References project area rather than parcel size for minimum area requirements. Includes sand and gravel mining as types of mining that are prohibited in association with the temporary batch plant.
- Regulates the types of signage to be used with temporary buildings and uses.

EVALUATION

Yard and Garage Sale Exemptions: Yard and garage sales tend to be an infrequently used part of maintaining a household and are useful for de-junking the home and preparing for a move. Assuming that yard and garage sales are relatively infrequent and short in duration for the vast majority of households, any nuisance a yard or garage sale might create generally won't last for more than a

weekend. The reason for the proposed 5 day per year limit is to prevent long term nuisances and to prevent businesses from operating under this exception.

Uses and sales related to city events: City events such as the 24th of July Celebration are generally very short in duration and are usually under the purview of the City Council. According to Section 18.84.170 of the Mapleton City Code these uses must be approved by the City Council. There is no reason to add additional restrictions in a separate part of the zoning ordinance.

Date restrictions on shaved ice and fruit stands: The current ordinance restricts these uses to specific beginning and ending dates. While it is desirable that a “temporary use” is indeed temporary in nature, the shift to a “days per year” limit allows business owners to choose the time period they believe will maximize their profitability while maintaining the temporary nature of the use.

Allow fruit and vegetable stands to sell their produce on the same property as it is grown: This proposed amendment creates an opportunity for a small farmer to sell his/her wares on the property they were produced on.

Seasonal Sales: This proposed change adds firework stands to the list of seasonal uses that are allowed. Along the lines of other temporary uses, this proposed amendment establishes a time period without setting specific dates in order to allow for operator flexibility while maintaining the temporary nature of the use.

Site Plans: The proposed change adds exterior seating to the list of specific requirements to be shown on a site plan. The site plan is intended to ensure that circulation and parking of the existing use is not made substandard or dangerous by the addition of the temporary use and its accessory elements.

Construction and sales offices: Larger scale projects around the country often make use of these temporary offices to facilitate construction and sale of units. With regulations that ensure that they don't become permanent, these offices are useful to developers and no more of a nuisance than the construction itself or the long term vacancy of units.

Signage: The proposed signage regulations are intended to allow advertising that is relatively neat, uniform and relatively unobtrusive.

Batch plants: The proposed changes are intended to ensure that these temporary use does not become sand and gravel pits. Additionally the language proposed recognizes the fact that a project area can include more than one property.

Changes related to approval authority and fees are intended to streamline the approval process while ensuring that the fees are up to date.

Planning Commission Review: On August 8, 2013 the Planning Commission reviewed this ordinance and recommended that the Council adopt the ordinance. The Commission did not make reference to any changes to the proposed ordinance in the motion to recommend approval. While discussing the proposed ordinance the Planning Commission did discuss: removing “season sales of fireworks” as an approved temporary use; the possible inclusion of language restricting temporary uses to only those that do not require a Food Handlers Permit; a requirement that specifically requires a temporary use to pass an inspection by the Building Official; and clarifications made with regard to Christmas Tree Lots.

Because the motion did not include a reference to any changes, the ordinance draft attached to this staff report still includes “seasonal sales of fireworks” as an approved temporary use. Due to the lack of inclusion in the motion and because the ordinance specifies the uses that are allowed as temporary uses, language limiting temporary uses to those that do not require a Food Handlers Permit are not included in

the draft ordinance. With regard to Christmas Tree Lots, section 18.22.090 of the proposed ordinance is sufficient to properly govern those uses and consequently staff did not make any changes to the proposed ordinance. The draft ordinance attached to this staff report does include language requiring Building Official approval prior to opening for business, a change discussed by the Commission. The Council could discuss any of these issues if it deems appropriate.

RECOMMENDATION

Adopt the attached ordinance.

ALTERNATIVE ACTIONS:

1. Do not adopt the proposed ordinance.
2. Adopt the proposed ordinance with changes.
3. Continue this item to a future meeting with a request for changes/additional information.

ATTACHMENTS

1. Draft Ordinance
2. Planning Commission minutes

ORDINANCE NO. 2013-

**CONSIDERATION OF AN ORDINANCE OF THE MAPLETON CITY COUNCIL
AMENDING MAPLETON CITY CODE CHAPTER 18.22 RELATED TO USES OF
LAND OR BUILDINGS THAT ARE TEMPORARY IN NATURE AND ARE
THEREFORE NOT LISTED AS REGULAR PERMITTED OR CONDITIONAL USES
IN ANY ZONE OF THE CITY.**

WHEREAS, MCC Chapter 18.22 outlines the requirements and standards pertaining to temporary uses; and

WHEREAS, the proposed amendments are intended to clarify and improve the requirements to protect the City from potentially negative impacts that could result from temporary uses; and

WHEREAS, the Planning Commission recommended approval of the ordinance on August 8, 2013.

NOW THEREFORE, BE IT RESOLVED by the City Council of Mapleton, Utah, to amend Mapleton City Code Chapter 18.22 as described in Exhibit "A".

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF MAPLETON, UTAH,

This 3rd Day of September, 2013.

Brian Wall
Mayor

ATTEST:

Camille Brown
City Recorder

Publication Date:
Effective Date:

Exhibit "A"
(Changes shown in strikeout and underline)

Chapter 18.22
TEMPORARY USES

18.22.010: PURPOSE AND OBJECTIVES:

The following regulations are provided to accommodate those uses of land or buildings which are temporary in nature and are not, therefore, listed as regular permitted or conditional uses in any zone of the city. The character of these uses is such that proper conditions are required to protect adjacent properties and the general health, safety, and welfare of the citizens of Mapleton City. Any building or structure which does not meet the requirements of this chapter shall be treated as a permanent land use and shall conform to all required standards of the building, health, fire, zoning, and other similar codes.

18.22.020: USES ALLOWED:

A. Uses allowed on a temporary basis in accordance with the provisions of this chapter may include, but are not limited to, the following: Seasonal sales as specified herein, ~~Christmas tree lots~~, retail/wholesale nursery supplies, shaved ice stands, promotional displays, fruit and vegetable stands, tents for religious services, and political rallies.

B. A temporary use permit shall not be required for a yard and garage sales, provided that the yard or garage sale shall not operate for more than a total of five (5) days in any calendar year, and shall be conducted by bona fide residents of the premises. Goods for sale shall consist of household items and personal belongings of the residents. Goods offered for sale shall not be placed over a public sidewalk or in a public right of way.

C. A temporary use permit shall not be required for temporary uses and sales related to events sponsored by Mapleton City so long as the uses are an approved accessory use to the event, confined to the official location of the event, and confined in duration to the hours and time period of the official event.

D. Uses shall be allowed for not more than thirty (30) days' duration except as specifically provided herein:

1. Shaved ice stands ~~which~~ may be permitted for one period of up to one hundred and fifty (150) days per year from June 1 to September 30, and shall be restricted to the following zones: GC-1, CC-1, NC-1, ~~I&M-1~~ and OS-P.

2. Fruit and vegetable sales shall be permitted for one period of up to one hundred and fifty (150) days per year, and shall be restricted to the following zones: GC-1, CC-1, and NC-1. Subject to the same restrictions contained in this part, fruit and vegetable stands may be operated in the A-2 zone when the produce sold is grown on the same 2+ acre parcel or adjacent parcels in the same ownership as the stand is located.

~~3.2.~~ Retail/wholesale nursery supplies which may be permitted up to one year by the same business owner or owners in the same or any locations, and shall be restricted to the GC-1 zone.

4. ~~Christmas tree lots~~ Seasonal sales of pumpkins and fireworks shall be limited to the GC-1, CC-1, NC-1, I&M-1-zones ~~only~~ and shall be limited to one thirty (30) day period per category, per year.

5. Christmas tree farms (live trees planted in the ground) and pumpkin patches shall be permitted a temporary use permit for sales in the A-2, RA-1, and RA-2 zones during the months associated with those types of sales.

~~C. Fruit and vegetable sales shall be permitted from June 1 through the month of October.~~

18.22.030: PRIOR APPROVAL REQUIRED:

Prior to the establishment of any of the above uses, or any qualifying temporary use, a temporary use permit must be obtained from the planning department. Any application for such permit shall meet the requirements of section 18.22.040 of this chapter and shall be made by the property owner or his/her authorized agent. The granting of said permit shall require the following findings:

A. The conduct of the requested use will not have any detrimental effects on adjacent properties and will be in general harmony with surrounding uses.

B. The requested use will not create excessive traffic hazards on adjacent streets and that traffic control, if necessary, shall be provided at the expense of the applicant.

C. The applicant shall have sufficient liability insurance for the requested use or event.

18.22.040: STANDARDS AND REQUIREMENTS:

A temporary use established under the provisions of this chapter shall conform to the following standards and requirements:

A. Any structure requiring sanitary facilities by building, fire, health, or other similar codes shall be located on the same lot as a host structure unless independent water and sewer service is provided to the temporary structure. Where such codes require sanitary facilities, they may be provided by a host structure provided that there is:

1. No preparation of any food on the premises;

2. No indoor seating of patrons;

3. Written evidence that a host structure will provide sanitary facilities for any employees and that such facilities are conveniently located not more than three hundred feet (300') from the structure and will be accessible during all periods of operation of the use;

4. Written evidence from the city/county health department that all food will be prepared and delivered from an approved commissary and that all waste resulting from the operation of the use will be properly disposed.

B. The minimum required parking shall be two (2) spaces except that a reasonable number of additional parking places may be required. Such parking, along with any structures, tents, canopies, seating areas, or display areas, shall not have the effect of decreasing any existing parking that is required for any other use existing on the site. All parking shall meet the standards for off street parking as specified in section 18.84.270 of this title, ~~except that required parking may be provided on a gravel rather than a concrete or asphaltic cement surface.~~

C. ~~The layout of the proposed use shall be compatible with~~ A site plan shall be submitted with the application that addresses the access, parking, circulation, exterior seating, and other significant elements of the temporary use and any other uses or structures existing on the site.

D. All structures shall be securely anchored to the ground at not less than four (4) points as directed by the chief building official. Temporary uses that include the use of electricity, water, sewer or other utility services and temporary uses that include the use of a structure or equipment deemed by the adopted building code to need a Building Permit or other inspection shall meet those requirement before being allowed to conduct business.

E. The right to occupy the site shall be secured by a written agreement with the owner of the parcel and the owner of any host structures. Said agreement shall address the question of use of restroom facilities by employees, responsibility for maintenance, and restoration of the site upon termination of the use. A copy of the proposed agreement shall be part of the application.

F. Approval for each temporary use permit shall bear an expiration date based upon the nature of the use. ~~Garage sales need not obtain a temporary use permit, but shall not operate the sale for a period exceeding five (5) days in any calendar year, and shall be conducted by bona fide residents of the premises. Goods for sale shall consist of household items used by residents of the premises.~~ If any temporary structure becomes vacant prior to the expiration of the permit, it shall be removed within ten (10) days.

G. The landowner of the parcel shall provide a cash bond for the restoration of the site of said use to its original condition, including cleanup, replacement of facilities, and removal of any structures. Said bond shall be one hundred dollars (\$100.00) for temporary uses without a structure, or a structure less than forty (40) square feet in size, or one thousand dollars (\$1,000.00) for all structures larger than forty (40) square feet in size, or two thousand dollars (\$2,000.00) for all structures larger than two hundred (200) square feet in size.

H. Temporary uses as allowed by this chapter may be identified by signage not to exceed 2 freestanding vinyl banners with a combined area of up up to twenty four (24) square feet and up to twenty four (24) square feet of total wall signage on the temporary structure itself. Signage must be located on the same property as the temporary use. All other signage is prohibited.

18.22.050: ACTION ON APPLICATION:

The Community Development Director or designee shall approve or deny permits for temporary uses. A use that meets the requirements stated above shall be approved and a use not meeting the requirements stated above shall be denied, or may be approved with appropriate conditions to assure that the use will be compatible with and will not pose any detriment to persons or property. Said conditions may include a limitation upon hours of operation and/or a time limitation which is less than the maximum established by this chapter.

18.22.060: REVOCATION OF PERMIT:

A permit may be revoked in the event of a violation of any of the provisions of this chapter or the conditions set forth in the temporary use permit.

18.22.070: BUSINESS LICENSE REQUIRED:

A temporary use permit is not a business license and the granting of said permit shall not relieve the permittee of any other license requirement of the city or any other public agency. Subject to the approval of a temporary use permit, a seasonal business license shall be issued prior to the commencement of a business allowed by this part.

18.22.080: FEES:

In order to offset a portion of the costs incurred by the city in processing temporary use permits, fees may be charged as provided for in the fee schedule adopted by the Mapleton City Council. ~~a fifty dollar (\$50.00) fee shall be charged for administrative approvals, and a one hundred dollar (\$100.00) fee shall be charged for approvals requiring planning commission approval.~~

18.22.090: CHRISTMAS TREE SALES; PERMIT:

A. It shall be unlawful for any person to sell or offer for sale in the city, any cut fir, evergreen, or Christmas tree, without a permit, ~~except when the permit requirement is waived~~ as provided in subsection B of this section.

B. A permit to sell cut fir, evergreen, or Christmas trees shall be obtained as otherwise described in this chapter. The permit required by this section shall allow tree sales for a period of thirty (30) days per year. ~~from November 25 to December 25 of the year in which the permit is issued.~~ ~~The fee charged for the permit described in this section shall be in lieu of a business license fee.~~ ~~Provided, however, that no fee shall be charged for the permit required by this section if:~~

~~1. The applicant possesses a business license for which the applicable fee, if any, has been paid, and~~

~~2. The applicant complies with the provisions of this chapter, except for the payment of a permit fee, and~~

3. ~~The applicant provides documentation showing that the trees to be sold have been lawfully cut, and are owned by the applicant, and~~

4. ~~The selling of trees is secondary to a principal commercial use.~~

18.22.100: TEMPORARY CONSTRUCTION AND SALES OFFICES:

A. Temporary Construction Trailers. A temporary construction trailers permit may be approved by the Community Development Director or designee for a structure or shelter used in connection with an approved development or project. The construction trailer may be used for temporary administrative and supervisory functions, and for sheltering employees and equipment during the construction phase of a project. Such a structure or shelter shall be removed within fourteen (14) days of the approval of the final Certificate of Occupancy.

B. Temporary Sales Office. A temporary sales office may be approved by the Community Development Director or designee, subject to the following conditions:

1. The sales office is in connection with the sale of property within a project or subdivision under construction.
2. The sales office is located on the same parcel of land as the project or subdivision and is engaged in the sale of only units or lots thereon.
3. The sales office shall be permitted for up to one (1) year or until all the lots are sold, whichever comes first. An extension may be granted on a yearly basis so long as units or lots within the project or subdivision remain unsold.

18.22.110: CONCRETE BATCH PLANTS:

A. Concrete batch plants may be granted by the planning commission on a temporary basis up to two (2) years from the date of planning commission approval and shall be restricted by the following conditions:

1. The use shall only be allowed on property where preliminary ~~plat~~ approval has been granted for a ~~subdivision~~ project by both the planning commission and city council; and
2. The overall ~~preliminary plat~~ project area must include a minimum ~~lot size~~ of one hundred (100) acres; and
3. The use shall cover not more than three (3) acres of the ~~preliminary plat~~ project area; and
4. A site specific temporary use permit and a site plan shall be reviewed and approved by the planning commission; and

5. The use shall not be located closer than one-fourth ($\frac{1}{4}$) mile to any existing or proposed residential dwelling in which a certificate of occupancy has been issued; and
6. Permanent buildings are prohibited; and
7. Mining, including sand and gravel mining operations, shall be prohibited; and
8. Access to the proposed use shall be allowed off of Highway 6 and must be reviewed and approved by UDOT (Utah department of transportation), Mapleton City engineer, and any other affected local governments; and
9. A lease agreement shall be required between the property owner and business owner; and
10. The use shall not generate noise above eighty five (85) decibels as measured from one-fourth ($\frac{1}{4}$) mile away from the perimeter of the site; and
11. Access roads shall remain dust free; and
12. The property owner or business owner shall provide a cash bond for the restoration of the site of said use to its original condition, including cleanup, replacement of facilities, and removal of any structures. Said bond shall be determined by the city engineer; and
13. As a means of mitigating potential safety hazards or significant adverse visual impacts, the planning commission may require additional conditions; and
14. Business owner shall obtain a Mapleton City business license.

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MAPLETON CITY
PLANNING COMMISSION MINUTES
August 8, 2013

5 **PRESIDING AND CONDUCTING:** Acting Chairman Mike Tippetts

7 **Commissioners in Attendance:** Leslie Jones
8 Thomas Quist
9 Golden Murray
10 Keith Stirling

12 **Staff in Attendance:** Sean Conroy, Community Development Director
13 Brian Tucker, Planner I

15 **Minutes Taken by:** April Houser, Executive Secretary

17 Acting Chairman Tippetts called the meeting to order at 6:30pm. Thomas Quist led the Pledge and
18 Golden Murray gave the invocation.

19 *Items are not necessarily heard in the order listed below.*

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23 **Item 5. Consideration of an ordinance amending Mapleton City Code Chapter 18.22 related**
24 **to uses of land or buildings that are temporary in nature and are therefore not listed**
25 **as regular permitted or conditional uses in any zone of the city.**

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27 **Brian Tucker**, Planner I, went over the Staff Report for those in attendance. He went through each of the
28 proposed changes. One thing the Commission may want to consider is where there is more than one
29 temporary use taking place on the same property. **Commissioner Jones** asked if there was an adverse
30 problem being caused by these types of uses, and if not she can not see why this needs to be an issue.
31 **Acting Chairman Tippetts** would like to prohibit the sale of fireworks within the City year round.
32 **Commissioner Murray** asked why shaved ice was specifically mentioned. He also felt there needed to
33 be some clarification made in regards to Christmas Tree Lots. The Commission felt there should be some
34 wording regarding the Temporary Uses to be allowed with only businesses that do not require a Food
35 Handlers Permit. Some wording should also be added in regards to the requirement of the use to pass an
36 inspection by the Building Official.

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38 **Acting Chairman Tippetts** opened the Public Hearing. No comments were given and the Public Hearing
39 was closed.

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41 **Motion:** Commissioner Murray moved to recommend approval to the City Council of an
42 ordinance amending Mapleton City Code Chapter 18.22 related to uses of land or
43 buildings that are temporary in nature and are therefore not listed as regular permitted or
44 conditional uses in any zone of the city with the noted items of discussion.

45 **Second:** Commissioner Quist

46 **Vote:** Unanimous

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48 **Item 6. Adjourn.**

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Motion: Commissioner Jones moved to adjourn the meeting at 7:30pm.
Second: Commissioner Quist
Vote: Unanimous

April Houser, Executive Secretary

Date:

Awaiting Formal Approval