

CITY OF SOLDOTNA  
ORDINANCE 2016-035

AN ORDINANCE AMENDING SECTION 17.10.130(B), DEFINITIONS TO INCLUDE A  
DEFINITION FOR "TEMPORARY USE" AND REPEALING AND RE-ENACTING SECTION  
17.10.405 TEMPORARY USES TO UPDATE GENERAL STANDARDS; ESTABLISH  
PROCESS FOR PERMITTING REVOCATION AND APPEALS; INCORPORATE MINOR  
OFFENSES; AND REMOVE MOBILE VENDORS

WHEREAS, the existing Title 17 of the Soldotna Municipal Code does not provide clear guidance on the necessary steps to issue or revoke a Zoning Permit for Temporary Uses; and

WHEREAS, the existing Title 17 of the Soldotna Municipal Code does not provide clear guidance on the necessary steps for affected parties to appeal the denial of a Zoning Permit for Temporary Uses, or any conditions imposed on such a Permit; and

WHEREAS, the existing Title 17 of the Soldotna Municipal Code does not provide guidance for Temporary Uses that have failed to obtain a Zoning Permit, or have violated a provision of the Zoning Code; and

WHEREAS, the general standards for Temporary Uses in Title 17 of the Soldotna Municipal Code require additional language to remain concurrent with other sections of Title 17; and

WHEREAS, the Soldotna Planning and Zoning Commission held a duly advertised public hearing on November 2, 2016 to consider the proposed amendments to Sections 17.10.405 and 17.10.130; and

WHEREAS, the Soldotna Planning and Zoning Commission voted without objection to recommend adoption of the proposed amendments; and

WHEREAS, the Soldotna Planning and Zoning Commission made the following findings:

1. Existing language in Section 17.10.405 of the Soldotna Municipal Code does not contain specific standards for zoning permit application, revocation, violation, or appeal; and
2. Existing language in Section 17.10.405 of the Soldotna Municipal Code contains procedures to permit mobile vendors, which has since been addressed in Section 17.10.380, Mobile Vendors, and should be removed from Section 17.10.405;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. That Section 17.10.130(B), Definitions, of the Soldotna Municipal Code is hereby amended to include a new definition "Temporary Use" immediately following the definition for "Structure, Temporary", as follows:

"Temporary Use" means a special event which is permitted to exist on a property for a pre-determined and limited amount of time.

Section 2. That Section 17.10.405, Temporary Uses, is hereby repealed, as follows:

- [A. INTENT. THE INTENT OF THIS SECTION IS TO REGULATE THE ESTABLISHMENT OF TEMPORARY USES AND ASSOCIATED STRUCTURES IN CERTAIN ZONING DISTRICTS IN ORDER TO PRESERVE LAND VALUES, FOSTER CIVIC BEAUTY, AND ENCOURAGE HIGH QUALITY DEVELOPMENT.
- B. WHEN REQUIRED. APPROVAL OF A TEMPORARY USE AND THE ISSUANCE OF A ZONING PERMIT SHALL BE REQUIRED PRIOR TO THE ESTABLISHMENT OF ANY TEMPORARY USE AND ASSOCIATED STRUCTURES WITHIN THE LIMITED COMMERCIAL, COMMERCIAL, INDUSTRIAL, PARKS AND RECREATION, AND INSTITUTIONAL DISTRICTS. EXCEPT, A TEMPORARY USE SHALL NOT BE REQUIRED FOR ANY OF THE FOLLOWING:
  - 1) IN ANY OTHER ZONING DISTRICT NOT LISTED IN THE FOREGOING LIST OF DISTRICTS;
  - 2) ONSITE OUTDOOR SALES WHICH ARE INCIDENTAL TO AN ONGOING BUSINESS;
  - 3) TEMPORARY CONSTRUCTION STRUCTURES SUCH AS OFFICES, SHEDS, AND FENCES FOR THE PROTECTION OF THE PUBLIC AND SIMILAR USES AND STRUCTURES THAT ARE APPROVED IN CONNECTION WITH A BUILDING PERMIT;
  - 4) TEMPORARY STRUCTURES, REQUIRED DUE TO LOSS OR DAMAGE TO PERMANENT STRUCTURES FROM FIRE OR NATURAL OCCURRENCE, WHICH ARE APPROVED IN CONNECTION WITH A BUILDING PERMIT BY THE ADMINISTRATIVE OFFICER FOR A PERIOD OF 180 DAYS OR LESS OR BY THE COMMISSION FOR A PERIOD OF LONGER THAN 180 DAYS; AND
  - 5) SURFACE EXTRACTION OF NATURAL RESOURCES, WHEN UNDERTAKEN IN CONJUNCTION WITH THE CONSTRUCTION OF A PROJECT CONFORMING TO THE PROVISIONS OF THE DISTRICT IN WHICH IT IS LOCATED AND ANY OTHER REQUIREMENTS AS A RESULT OF SPECIAL APPROVALS ASSOCIATED WITH THE PROJECT.
- C. SPECIAL DEFINITION. "TEMPORARY USE" SHALL MEAN ANY USE WHICH IS PERMITTED TO EXIST ON A SITE FOR A PREDETERMINED, LIMITED PERIOD OF TIME.
- D. APPLICATION PROCEDURE. A SITE PLAN AND AN APPLICATION FOR A ZONING PERMIT SHALL BE PREPARED AND SUBMITTED FOR APPROVAL AS REQUIRED IN SECTION 17.10.415, SITE PLAN REVIEW, AND SECTION 17.10.420, ZONING PERMIT.
- E. ALLOWED TEMPORARY USES . WITH THE APPROVAL AND ISSUANCE OF A ZONING PERMIT, THE FOLLOWING TEMPORARY USES MAY BE ALLOWED:
  - 1) SPECIAL EVENTS INCLUDING, BUT NOT LIMITED TO, OUTDOOR CONCERTS, MARKETS, AND FESTIVALS;
  - 2) CARNIVALS, CIRCUSES, ZOOS, ANIMAL EXHIBITS, AND RIDES;
  - 3) SALES OF GOODS AND SERVICES (INCLUDING FOODS AND BEVERAGES);
  - 4) GATHERING STATIONS AND RECYCLING FACILITIES;
  - 5) BATCH PLANTS FOR ASPHALT AND CEMENT MATERIALS;
  - 6) OUTDOOR EXHIBITS AND DISPLAYS; AND
  - 7) OTHER USES WHICH ARE SIMILAR AND COMPATIBLE TO THOSE LISTED ABOVE WHICH ARE APPROVED BY THE ADMINISTRATIVE OFFICER.

- F. GENERAL STANDARDS. ALL OF THE FOLLOWING STANDARDS SHALL BE MET BEFORE A TEMPORARY USE MAY BE APPROVED:
- 1) COMPLY WITH THE INTENT OF THIS SECTION AND ALL OTHER REQUIREMENTS OF THIS ZONING CODE FOR THE APPLICABLE ZONING DISTRICT;
  - 2) NOT EXCEED 1,000 SQUARE FEET OF GROSS FLOOR AREA OR ONE STORY IN HEIGHT FOR ANY ONE STRUCTURE, WITH THE EXCEPTION OF TENTS;
  - 3) MINIMIZE INTERFERENCE WITH THE ENJOYMENT OF NEIGHBORING USES AND PROTECT NEIGHBORING USES FROM NUISANCES OR HAZARDOUS FEATURES;
  - 4) NOT CREATE HAZARDOUS VEHICULAR OR PEDESTRIAN TRAFFIC CONDITIONS OR RESULT IN TRAFFIC IN EXCESS OF THE CAPACITY OF STREETS OR PROPERTY SERVING THE USE;
  - 5) BE LOCATED ON A SITE WHICH IS OF SUFFICIENT SIZE TO ADEQUATELY ACCOMMODATE THE USE; WHICH HAS AVAILABILITY OF ADEQUATE UTILITIES, DRAINAGE, REFUSE MANAGEMENT, EMERGENCY SERVICES, ACCESS, OFF-STREET PARKING, AND OTHER NECESSARY FACILITIES AND SERVICES; AND WHICH IS SUITABLE FOR THE PROPOSED USE, CONSIDERING FLOOD HAZARD, DRAINAGE, SOILS, AND OTHER CONDITIONS WHICH MAY CONSTITUTE A DANGER TO LIFE, HEALTH, OR PROPERTY;
  - 6) BE REMOVED AND THE SITE BE RESTORED TO THE ORIGINAL OR BETTER CONDITION ON OR BEFORE THE EXPIRATION DATE OF THE PERMIT; AND
  - 7) COMPLY WITH ALL OTHER APPLICABLE LAWS, CODES, AND STATUTES APPROPRIATE TO THE SPECIFIC ACTIVITIES ASSOCIATED WITH THE PROPOSED TEMPORARY USE.
- G. SPECIAL CONDITIONS. THE ADMINISTRATIVE OFFICER OR COMMISSION MAY IMPOSE ANY SPECIAL CONDITIONS APPROPRIATE TO THE ACTIVITIES ASSOCIATED WITH A PROPOSED TEMPORARY USE.
- H. SPECIFIC LOCATION. TEMPORARY USE PERMITS SHALL BE ISSUED FOR A SPECIFIC SITE. IF A TEMPORARY USE IS MOVED TO A NEW SITE, A NEW PERMIT IS REQUIRED.
- I. PERMIT DURATION. TEMPORARY USE PERMITS SHALL BE ISSUED FOR A PERIOD OF TIME NOT TO EXCEED 110 CONSECUTIVE DAYS. PERMITS WILL NOT BE EXTENDED BEYOND A 110 DAY DURATION UNDER ANY CIRCUMSTANCES.
- J. TEMPORARY USE GUARANTEE. A CASH SECURITY IN AN AMOUNT NOT LESS THAN \$100 NOR MORE THAN \$3,500 SHALL BE POSTED WITH THE CITY TO ASSURE COMPLIANCE WITH THE TERMS OF THE TEMPORARY USE PERMIT, INCLUDING REMOVAL OF ANY TEMPORARY USE AND RESTORATION OF THE SITE UPON EXPIRATION OF THE PERMIT. THE CASH SECURITY AMOUNT SHALL BE DETERMINED BY THE ADMINISTRATIVE OFFICER AND MAY BE WAIVED IF THE ADMINISTRATIVE OFFICER DETERMINES THE IMPACTS OF THE USE ON THE SITE TO BE INSIGNIFICANT. THE CASH SECURITY WILL BE REFUNDED UPON PROOF OF COMPLIANCE WITH THIS SECTION. TEMPORARY USES OPERATED BY IRS RECOGNIZED NON-PROFIT ORGANIZATIONS FOR NOT MORE THAN 72 HOURS ARE EXEMPT FROM FEES AND CASH SECURITY REQUIREMENTS, BUT SHALL COMPLY WITH ALL OTHER REQUIREMENTS OF THIS SECTION.]

Section 3. That Section 17.10.405, Temporary uses, is hereby re-enacted as follows:

A. Intent. The intent of this section is to safeguard and protect the enjoyment of private property and land uses within the City of Soldotna, while allowing and regulating the establishment of occasional temporary uses which may be beneficial to the City and its residents.

B. Permit Required. Approval of a Temporary Use application and the issuance of a Zoning Permit for a Temporary Use shall be required for any of the following:

- 1) Outdoor concerts, markets for the sale of goods or services, and festivals;
- 2) Carnivals, rides, circuses, zoos, or animal exhibitions;
- 3) Outdoor exhibits and displays; or
- 4) Other uses which are similar to and compatible with those listed above, pending approval by the Administrative Officer.

A permit is not required under this subsection for outdoor sales which are incidental to an ongoing, established business, if located on the same parcel or an adjacent parcel under common development; events held in City of Soldotna parks or campgrounds, which are instead regulated and permitted by the City's Parks and Recreation Department; or garage sales, which are regulated in Section 17.10.310.

C. Location. Temporary Uses may be permitted in the Commercial, Limited Commercial, Institutional, and Industrial Zoning Districts. Temporary Uses shall not be authorized for locations within public rights-of-way or across travel easements, unless specifically authorized by other City ordinances or regulations or by specific authorization of the Administrative Officer. Zoning Permits for Temporary Uses are issued for a specific parcel. A Temporary Use that is moved to a different parcel requires a new application review and permit.

D. Term of Permit. Zoning Permits for a Temporary Use shall be issued for a period of time not to exceed 110 consecutive days per calendar year and may not be extended under any circumstances.

E. Application Procedure. A site plan as required in Section 17.10.415, Site Plan Review, and an application for a Zoning Permit for a Temporary Use shall be submitted to the Administrative Officer and shall contain at a minimum the following:

- 1) Contact information including a functional telephone number for the applicant and for the property owner;
- 2) Written permission from the property owner for the Temporary Use to occur;
- 3) Address or legal description of the property on which the Temporary Use is proposed;
- 4) Proposed date(s) and hour(s) of operation of the Temporary Use;
- 5) A complete description of the Temporary Use which:
  - a. describes the proposed activity or activities;
  - b. gives an estimated quantity of persons who will be in attendance each day of the Temporary Use; and

c. demonstrates to the satisfaction of the Administrative Officer that the applicant has an effective plan for satisfying each of the criteria in subsection SMC 17.10.405.E;

6) \$50.00 nonrefundable application fee plus applicable taxes;

7) Certification by the Kenai Peninsula Borough Finance Department in a tax compliance certificate provided by the City of Soldotna that the applicant is current in the payment of any sales tax to the City of Soldotna and the Kenai Peninsula Borough.

F. General Standards. The Administrative Officer may approve a Zoning Permit for a Temporary Use if it is found that the permit application demonstrates the Temporary Use will comply with the following general standards.

In order to receive a Zoning Permit, the Temporary Use must:

1) Be in harmony with the intent of the zoning district in which the Temporary Use is located;

2) Minimize interference with the enjoyment of neighboring uses and protect neighboring uses from nuisances or hazardous features;

3) Not create hazardous vehicular or pedestrian traffic patterns or result in traffic in excess of the capacity of surrounding rights-of-way or property serving the use;

4) Be located on a property which is of sufficient size to adequately accommodate the Temporary Use; which has availability of adequate restroom facilities or temporary structures such as portable toilets with established handwashing stations; drainage for stormwater runoff; refuse management facilities; and safe and maneuverable access for emergency services, pedestrians, patron vehicles including off-street parking, and other necessary facilities and services as determined by the Administrative Officer;

5) Be removed and the site be restored to the original or better condition on or before the expiration date of the permit;

6) Have obtained written permission from the property owner(s) where operating;

7) Be registered to collect sales tax within the Kenai Peninsula Borough, if required;

8) Be in accordance with the regulations found in Chapter 15.08, Sign Code; and

9) Be in accordance with the requirements found in Title 17, Zoning Code, and with all other applicable laws, codes, and statutes of any jurisdiction as appropriate to the specific activities associated with the proposed temporary use.

G. Special Conditions. The Administrative Officer may impose any special conditions necessary to ensure that the intent and general standards of this section are satisfied.

H. Revocation for Noncompliance. The Administrative Officer may revoke a Zoning Permit for a Temporary Use if it is determined that the conduct of the operation(s) is not in compliance with either the terms and conditions of the

permit, or the provisions of the Municipal Code. The permit may be revoked immediately, including during the operation of the Temporary Use.

- I. Violations and Penalty. The failure to obtain a required Zoning Permit for a Temporary Use is a minor offense as defined in SMC 1.08.030. The owner, agent, or contractor of a building or premises where a violation has been committed or exists, or any other person who maintains a building, premises, or use without obtaining a required Zoning Permit for a Temporary Use, shall be punished by a fine as provided in SMC 1.08.080, or if no fine is there established, of not more than \$500. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.
- J. Appeal of Decision. An applicant or a person with an interest in real property that is likely to be affected by a Temporary Use may appeal the denial of a Zoning Permit required by this Section, or any conditions imposed on a Permit, using the procedures set forth in 17.10.430, Administrative Appeals.

Section 4. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE CITY COUNCIL THIS 11TH DAY OF JANUARY, 2017.

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Pete Sprague, Mayor

ATTEST:

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Michelle M. Saner, MMC, City Clerk

Yes: Daniels, Cox, Cashman, Murphy, Parker, Whitney  
No: None



# SOLDOTNA

Economic Development + Planning

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## MEMORANDUM

**TO:** MAYOR AND CITY COUNCIL

**THROUGH:** MARK DIXSON, CITY MANAGER  
STEPHANIE QUEEN, DIR. ECONOMIC DEVELOPMENT & PLANNING

**FROM:** AUSTIN JOHNSON, PLANNING/GIS TECHNICIAN

**DATE:** NOVEMBER 4, 2016

**SUBJECT:** ORDINANCE 2016-035 – AMENDING SECTION 17.10 OF THE MUNICIPAL CODE, TEMPORARY USES, TO UPDATE GENERAL STANDARDS; ESTABLISH PROCESSES FOR PERMITTING, REVOCATION, AND APPEALS; INCORPORATE MINOR OFFENSES; AND REMOVE MOBILE VENDORS

On November 2, 2016, Soldotna Planning & Zoning Commission held a public hearing and approved without objection PZ Resolution 2016-022, recommending an amendment to SMC Section 17.10.405, Temporary Uses.

The suggested language codifies or clarifies procedures that the administration uses while reviewing, issuing, and/or revoking Zoning Permits for Temporary Uses. Additionally, the proposed language establishes clear guidelines for affected parties to appeal denials of Zoning Permits or conditions placed upon a Temporary Use.

The Council's Substitute Ordinance 2016-021 (public hearing in July 2016) incorporated the State Court Rules of Minor Offense Procedure and adopted penalties in a fine schedule. Ordinance 2016-035 proposes that failure to obtain a permit, or violations of the Temporary Use code, are to be considered minor offenses, creating a more robust enforcement mechanism. This is an important consideration due to the often temporary and/or transient nature of Temporary Uses.

Additionally, there are several sections of the Temporary Use code that Staff suggests for removal. These sections of code are not utilized by Staff, such as the provision for collecting a cash security to assure compliance. Others do not fit within the parameters of the Temporary Use permitting program as it has grown and evolved over the years. Uses such as batch asphalt plants or recycling facilities have not been established as Temporary Uses in Soldotna in Staff's collective memory, and if established in the future, would be more appropriately permitted through other sections of Municipal Code.

Finally, the Planning Commission and City Council adopted in 2015 an ordinance establishing a mobile vendor permitting program. Previously, these uses had been permitted (somewhat ill-fittingly) through the Temporary Use code. With the recent code changes in mind, Staff proposes that individual, mobile vendor sales be removed



# SOLDOTNA

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## MEMORANDUM

from allowable Temporary Uses. Organized events for the sales of goods or services, such as pop-up markets or flea markets, will still be considered an allowable Temporary Use under the proposed code changes.

The Planning Commission recommended adoption of the proposed code changes, with a Staff-supported amendment to slightly modify language for Violations (Section I). The modified language was suggested by the City Attorney and establishes new, standardized guidance for violations in Title 17.

Thank you for your consideration. Please contact the Planning Department if you have any questions.



CITY OF SOLDOTNA  
PLANNING AND ZONING COMMISSION  
RESOLUTION NO. PZ 2016-022  
ZONING CODE AMENDMENT

RECOMMENDING THAT THE TEMPORARY USE SECTION OF CHAPTER  
17.10 OF THE MUNICIPAL CODE BE AMENDED TO UPDATE GENERAL  
STANDARDS; ESTABLISH PROCESSES FOR PERMITTING, REVOCATION, AND  
APPEALS; INCORPORATE MINOR OFFENSES; AND REMOVE MOBILE VENDORS

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WHEREAS, the general standards for Temporary Uses require additional language to remain concurrent with other sections of the Zoning Code; and

WHEREAS, the existing Soldotna Municipal Code does not provide clear guidance on the necessary steps to issue or revoke a Zoning Permit for Temporary Uses; and

WHEREAS, the existing Soldotna Municipal Code does not provide guidance on the necessary steps for affected parties to appeal the denial of a Zoning Permit for Temporary Uses, or any conditions imposed on such a Permit; and

WHEREAS, the existing Soldotna Municipal Code does not provide guidance for Temporary Uses that have failed to obtain a Zoning Permit, or have violated a provision of the Zoning Code; and

WHEREAS, in 2015 the City of Soldotna enacted Section 17.10.380, Mobile Vendors, establishing a permitting process and standards for mobile vending units, allowing for the removal of individual temporary food and beverage sales from the Temporary Use code; and

WHEREAS, the City of Soldotna Planning and Zoning Commission find:

1. Existing language in Section 17.10.405 of the Soldotna Municipal Code does not contain specific standards for zoning permit application, revocation, violation, or appeal;
2. Existing language in Section 17.10.405 of the Soldotna Municipal Code contains procedures to permit mobile vendors, which has since been addressed in Section 17.10.380, Mobile Vendors, and should be removed from Section 17.10.405;

WHEREAS, the Planning and Zoning Commission held a duly advertised public hearing on November 2, 2016 to consider these amendments to the Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. That the Planning and Zoning Commission recommends the City Council amend Section 17.10.130(B), Definitions, as follows:

"Temporary Use" means a special event which is permitted to exist on a property for a pre-determined and limited amount of time.

Section 2. That the Planning and Zoning Commission recommends the City Council amend Section 17.10.405, Temporary uses, as follows:

- A. Intent. The intent of this section is to safeguard and protect the enjoyment of private property and land uses within the City of Soldotna, while allowing and regulat[E]ing the establishment of occasional temporary uses [AND ASSOCIATED STRUCTURES IN CERTAIN ZONING DISTRICTS IN ORDER TO PRESERVE LAND VALUES, FOSTER CIVIC BEAUTY, AND ENCOURAGE HIGH QUALITY DEVELOPMENT] which may be beneficial to the City and its residents.
- B. [WHEN] Permit Required. Approval of a T[T]emporary U[u]se application and the issuance of a Zoning Permit for a Temporary Use shall be required for any of the following: [PRIOR TO THE ESTABLISHMENT OF ANY TEMPORARY USE AND ASSOCIATED STRUCTURES WITHIN THE LIMITED COMMERCIAL, COMMERCIAL, INDUSTRIAL, PARKS AND RECREATION, AND INSTITUTIONAL DISTRICTS.]
- 1) Outdoor concerts, markets for the sale of goods or services, and festivals;
  - 2) Carnivals, rides, circuses, zoos, or animal exhibitions;
  - 3) Outdoor exhibits and displays; or
  - 4) Other uses which are similar to and compatible with those listed above, pending approval by the Administrative Officer.

A permit is not required under this subsection for outdoor sales which are incidental to an ongoing, established business, if located on the same parcel or an adjacent parcel under common development; events held in City of Soldotna parks or campgrounds, which are instead regulated and permitted by the City's Parks and Recreation Department; or garage sales, which are regulated in Section 17.10.310. [EXCEPT, A TEMPORARY USE SHALL NOT BE REQUIRED FOR ANY OF THE FOLLOWING:

- 1) IN ANY OTHER ZONING DISTRICT NOT LISTED IN THE FOREGOING LIST OF DISTRICTS;
- 2) ONSITE OUTDOOR SALES WHICH ARE INCIDENTAL TO AN ONGOING BUSINESS;
- 3) TEMPORARY CONSTRUCTION STRUCTURES SUCH AS OFFICES, SHEDS, AND FENCES FOR THE PROTECTION OF THE PUBLIC AND SIMILAR USES AND STRUCTURES THAT ARE APPROVED IN CONNECTION WITH A BUILDING PERMIT
- 4) TEMPORARY STRUCTURES, REQUIRED DUE TO LOSS OR DAMAGE TO PERMANENT STRUCTURES FROM FIRE OR NATURAL OCCURRENCE, WHICH ARE APPROVED IN CONNECTION WITH A BUILDING PERMIT BY THE ADMINISTRATIVE OFFICER FOR A PERIOD OF 180 DAYS OR LESS OR BY THE COMMISSION FOR A PERIOD OF LONGER THAN 180 DAYS; AND
- 5) SURFACE EXTRACTION OF NATURAL RESOURCES, WHEN UNDERTAKEN IN CONJUNCTION WITH THE CONSTRUCTION OF A PROJECT CONFORMING TO THE PROVISIONS OF THE DISTRICT IN WHICH IT IS LOCATED AND ANY OTHER REQUIREMENTS AS A RESULT OF SPECIAL APPROVALS ASSOCIATED WITH THE PROJECT.]

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
No: None  
Absent: Denbrock

C. Location. Temporary Uses may be permitted in the Commercial, Limited Commercial, Institutional, and Industrial Zoning Districts. Temporary Uses shall not be authorized for locations within public rights-of-way or across travel easements, unless specifically authorized by other City ordinances or regulations or by specific authorization of the Administrative Officer. Zoning Permits for Temporary Uses are issued for a specific parcel. A Temporary Use that is moved to a different parcel requires a new application review and permit.

[C. SPECIAL DEFINITION. "TEMPORARY USE" SHALL MEAN ANY USE WHICH IS PERMITTED TO EXIST ON A SITE FOR A PREDETERMINED, LIMITED PERIOD OF TIME.]

D. Term of Permit. Zoning Permits for a Temporary Use shall be issued for a period of time not to exceed 110 consecutive days per calendar year and may not be extended under any circumstances.

E[D]. Application Procedure. A site plan as required in Section 17.10.415, Site Plan Review, and an application for a Zoning Permit for a Temporary Use as required in Section 17.10.420, Zoning Permit, shall be [PREPARED AND] submitted [FOR APPROVAL] to the Administrative Officer and shall contain at a minimum the following: [AS REQUIRED IN SECTION 17.10.415, SITE PLAN REVIEW, AND SECTION 17.10.420, ZONING PERMIT.]

- 1) Contact information including a functional telephone number for the applicant and for the property owner;
- 2) Written permission from the property owner for the Temporary Use to occur;
- 3) Address or legal description of the property on which the Temporary Use is proposed;
- 4) Proposed date(s) and hour(s) of operation of the Temporary Use;
- 5) A complete description of the Temporary Use which:
  - a. describes the proposed activity or activities; and
  - b. gives an estimated quantity of persons who will be in attendance each day of the Temporary Use; and
  - c. demonstrates to the satisfaction of the Administrative Officer that the applicant has an effective plan for satisfying each of the criteria in subsection SMC 17.10.405.F;
- 6) \$50.00 nonrefundable application fee plus applicable taxes;
- 7) Certification by the Kenai Peninsula Borough Finance Department in a tax compliance certificate provided by the City of Soldotna that the applicant is current in the payment of any sales tax to the City of Soldotna and the Kenai Peninsula Borough.

[E. ALLOWED TEMPORARY USES . WITH THE APPROVAL AND ISSUANCE OF A ZONING PERMIT, THE FOLLOWING TEMPORARY USES MAY BE ALLOWED:

- 1) SPECIAL EVENTS INCLUDING, BUT NOT LIMITED TO, OUTDOOR CONCERTS, MARKETS, AND FESTIVALS;
- 2) CARNIVALS, CIRCUSES, ZOOS, ANIMAL EXHIBITS, AND RIDES;

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
No: None  
Absent: Denbrock

- 3) SALES OF GOODS AND SERVICES (INCLUDING FOODS AND BEVERAGES);
- 4) GATHERING STATIONS AND RECYCLING FACILITIES;
- 5) BATCH PLANTS FOR ASPHALT AND CEMENT MATERIALS;
- 6) OUTDOOR EXHIBITS AND DISPLAYS; AND
- 7) OTHER USES WHICH ARE SIMILAR AND COMPATIBLE TO THOSE LISTED ABOVE WHICH ARE APPROVED BY THE ADMINISTRATIVE OFFICER.]

F. General Standards. The Administrative Officer may approve a Zoning Permit for a Temporary Use if it is found that the permit application demonstrates the Temporary Use will comply with the following general standards. [ALL OF THE FOLLOWING STANDARDS SHALL BE MET BEFORE A TEMPORARY USE MAY BE APPROVED:]

In order to receive a Zoning Permit, the Temporary Use must:

- 1) Be in harmony [COMPLY] with the intent of [THIS SECTION AND ALL OTHER REQUIREMENTS OF THIS] the zoning district [CODE FOR THE APPLICABLE ZONING DISTRICT] in which the Temporary Use is located;
- 2) [NOT EXCEED 1,000 SQUARE FEET OF GROSS FLOOR AREA OR ONE STORY IN HEIGHT FOR ANY ONE STRUCTURE, WITH THE EXCEPTION OF TENTS;]
- 2) Minimize interference with the enjoyment of neighboring uses and protect neighboring uses from nuisances or hazardous features;
- 3) Not create hazardous vehicular or pedestrian traffic patterns [CONDITIONS] or result in traffic in excess of the capacity of surrounding rights-of-way [STREETS] or property serving the use;
- 4) Be located on a property [SITE] which is of sufficient size to adequately accommodate the Temporary U[u]se; which has availability of adequate restroom facilities or temporary structures such as portable toilets with established handwashing stations [UTILITIES];[, ] drainage for stormwater runoff;[, ] refuse management facilities;[, ] and safe and maneuverable access for emergency services, pedestrians, [ACCESS], patron vehicles including off-street parking, and other necessary facilities and services as determined by the Administrative Officer; [AND WHICH IS SUITABLE FOR THE PROPOSED USE, CONSIDERING FLOOD HAZARD, DRAINAGE, SOILS, AND OTHER CONDITIONS WHICH MAY CONSTITUTE A DANGER TO LIFE, HEALTH, OR PROPERTY;]
- 5) Be removed and the site be restored to the original or better condition on or before the expiration date of the permit; [AND]
- 6) Have obtained written permission from the property owner(s) where operating;
- 7) Be registered to collect sales tax within the Kenai Peninsula Borough, if required;
- 8) Be in accordance with the regulations found in Chapter 15.08, Sign Code; and
- 9) [6)] Be in accordance with the requirements found in Title 17, Zoning Code, and [COMPLY] with all other applicable laws, codes, and statutes of any jurisdiction as appropriate to the specific activities associated with the proposed temporary use.

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
 No: None  
 Absent: Denbrock

- G. Special Conditions. The Administrative Officer [OR COMMISSION] may impose any special conditions necessary to ensure that the intent and general standards of this section are satisfied. [APPROPRIATE TO THE ACTIVITIES ASSOCIATED WITH A PROPOSED TEMPORARY USE.]
- H. Revocation for Noncompliance. The Administrative Officer may revoke a Zoning Permit for a Temporary Use if it is determined that the conduct of the operation(s) is not in compliance with either the terms and conditions of the permit, or the provisions of the Municipal Code. The permit may be revoked immediately, including during the operation of the Temporary Use.
- I. Violations and penalty. The failure to obtain a required Zoning Permit for a Temporary Use is a minor offense as defined in SMC 1.08.030. The owner, agent, or contractor of a building or premises where a violation has been committed or exists, or any other person who maintains a building, premises, or use without obtaining a required Zoning Permit for a Temporary Use, shall be punished by a fine as provided in SMC 1.08.080, or if no fine is there established, of not more than \$500. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.
- J. Appeal of Decision. An applicant or a person with an interest in real property that is likely to be affected by a Temporary Use may appeal the denial of a Zoning Permit required by this Section, or any conditions imposed on a Permit, using the procedures set forth in 17.10.430, Administrative Appeals.
- [H. SPECIFIC LOCATION. TEMPORARY USE PERMITS SHALL BE ISSUED FOR A SPECIFIC SITE. IF A TEMPORARY USE IS MOVED TO A NEW SITE, A NEW PERMIT IS REQUIRED.
- I. PERMIT DURATION. TEMPORARY USE PERMITS SHALL BE ISSUED FOR A PERIOD OF TIME NOT TO EXCEED 110 CONSECUTIVE DAYS. PERMITS WILL NOT BE EXTENDED BEYOND A 110 DAY DURATION UNDER ANY CIRCUMSTANCES.
- J. TEMPORARY USE GUARANTEE. A CASH SECURITY IN AN AMOUNT NOT LESS THAN \$100 NOR MORE THAN \$3,500 SHALL BE POSTED WITH THE CITY TO ASSURE COMPLIANCE WITH THE TERMS OF THE TEMPORARY USE PERMIT, INCLUDING REMOVAL OF ANY TEMPORARY USE AND RESTORATION OF THE SITE UPON EXPIRATION OF THE PERMIT. THE CASH SECURITY AMOUNT SHALL BE DETERMINED BY THE ADMINISTRATIVE OFFICER AND MAY BE WAIVED IF THE ADMINISTRATIVE OFFICER DETERMINES THE IMPACTS OF THE USE ON THE SITE TO BE INSIGNIFICANT. THE CASH SECURITY WILL BE REFUNDED UPON PROOF OF COMPLIANCE WITH THIS SECTION. TEMPORARY USES OPERATED BY IRS RECOGNIZED NON-PROFIT ORGANIZATIONS FOR NOT MORE THAN 72 HOURS ARE EXEMPT FROM FEES

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
 No: None  
 Absent: Denbrock

AND CASH SECURITY REQUIREMENTS, BUT SHALL COMPLY WITH ALL OTHER REQUIREMENTS OF THIS SECTION.]

Section 3. This recommendation is based on the findings listed in this Resolution.

Section 4. This Resolution becomes effective immediately and a copy of the record shall be forwarded to the City Council for their consideration.

PASSED by the Planning and Zoning Commission this 2<sup>nd</sup> day of November, 2016.

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Tom Janz, Vice Chair

ATTEST:

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Austin Johnson, Planning/GIS Technician

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
No: None  
Absent: Denbrock

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# CITY OF SOLDOTNA

## PLANNING + ZONING COMMISSION MINUTES

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NOVEMBER 2, 2016, 5:30 P.M.

CITY COUNCIL CHAMBER, SOLDOTNA, ALASKA

REGULAR MEETING

**TOM JANZ, VICE CHAIR**  
**JENNY SMITHWICK ALEY**

**KAITLIN VADLA**  
**JOYCE COX**

**KEITH BAXTER**  
**DAVID HUTCHINGS**

### CALL TO ORDER & PLEDGE OF ALLEGIANCE

A Regular Meeting of the Soldotna Planning and Zoning Commission was held on November 2, 2016. Vice Chair Janz called the meeting to order at 5:30 p.m.

There were present:

Kaitlin Vadla  
Joyce Cox  
Tom Janz

Jenny Smithwick Aley  
David Hutchings  
Keith Baxter

Comprising a quorum of the Commission.

Also in attendance were:

\*\*Tim Cashman III, Student Representative  
John Czarnezki, City Planner  
Austin Johnson, Planning/GIS Technician  
Tim Cashman II, City Council Member

### APPROVAL OF AGENDA

The agenda was approved unanimously.

### APPROVAL OF MINUTES

The minutes of October 5, 2016 and October 19, 2016 were approved unanimously.

### PUBLIC HEARINGS

- A. Resolution PZ 2016-022: Recommending that the Temporary Use Section of Chapter 17.10 of the Municipal Code be Amended to Update General Standards; Establish Processes for Permitting, Revocation, and Appeals; Incorporate Minor Offenses; and Remove Mobile Vendors

**MOTION:** Commissioner Vadla moved to approve PZ Resolution 2016-022.

Planning/GIS Technician Johnson summarized the proposed changes to the Temporary Use code (report received for filing).

Vice Chair Janz opened the public hearing.

With no persons wishing to speak, the public hearing was closed.

The Commission discussed DEC requirements and their applicability to Temporary Uses.

**MOTION TO AMEND:** Commissioner Cox moved to amend PZ Resolution 2016-022 as follows.

The seventh WHEREAS, under Section 2, modify Section E to read,

"E. Application Procedure. [ISSUANCE OF PERMIT]"

Section I to read,

"I. Violations and penalty. The failure to obtain a required Zoning Permit for a Temporary Use is a minor offense as defined in SMC

1.08.030. The owner, agent, or contractor of a building or premises where a violation has been committed or exists, or any other person who maintains a building, premises, or use without obtaining a required Zoning Permit for a Temporary Use, shall be punished by a fine as provided in SMC 1.08.080, or if no fine is there established, of not more than \$500. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive. [I. VIOLATIONS. THE FAILURE TO OBTAIN A ZONING PERMIT FOR A TEMPORARY USE THAT IS REQUIRED BY THIS CHAPTER, OR THE VIOLATION OF ANY PROVISION THEREOF, IS UNLAWFUL AND CONSIDERED A MINOR OFFENSE PUNISHABLE AS PROVIDED IN SMC 1.08.080 OR, IF NO FINE IS THERE ESTABLISHED, A PENALTY NOT TO EXCEED \$500.]

**VOTE ON MOTION TO AMEND:**

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
No: None

\*\*Student Representative Cashman: Yes

**MOTION TO AMEND PASSED:** 6 Yes, 0 No

**VOTE ON MAIN MOTION AS AMENDED:**

Yes: Vadla, Smithwick, Cox, Hutchings, Janz, Baxter  
No: None

\*\*Student Representative Cashman: Yes

**MAIN MOTION AS AMENDED PASSED:** 6 Yes, 0 No

**UNFINISHED BUSINESS - None**

**NEW BUSINESS**

A. Special Considerations

1. Request to Rescind the Previous Motion to Approve Resolution PZ 2016-12 – Recommending Approval of the Mooring Estates Subdivision Bible Chapel Third Addition Preliminary Plat

**MOTION:** Commissioner Smithwick Aley moved to rescind the previous motion to approve Resolution PZ 2016-012.

Czarnezki informed Commissioners that the Kenai Peninsula Borough Planning Commission had received a letter of objection concerning vacating the North Brentwood right-of-way between Sohi Lane and West Marydale Avenue during their public notification process, and had decided to postpone consideration of the Preliminary Plat, offering the City another opportunity to provide their input. The City has now received a similar letter of objection. Staff believes retaining the right-of-way will allow motorists additional options, which could become important should the multi-family zoned property to the north be developed.

The Commission discussed options for development of the right-of-way, including a review of the Special Assessment District process, and discussed current maintenance practices of the right-of-way.

The Vice Chair provided opportunity for the public to speak.

Jeremy Kauffman stated that there continue to be issues with traffic control on the church property and around the North Brentwood right-of-way and that utilization of North



Brentwood will continue to be minimal unless the City constructs the right-of-way to a higher standard. The Bible Chapel bought property from the City of Soldotna during the City's 2015 land sale with the understanding that the right-of-way could be vacated.

Kevin Spence stated that he is concerned about traffic control on the Soldotna Bible Chapel property. Although the Bible Chapel had been asking for North Brentwood to be constructed since 1995, now it is time to move forward with the vacation of the right-of-way.

Gary Lindman stated that maintenance on the right-of-way has been substandard and that the right-of-way vacation would benefit both the City of Soldotna and the Bible Chapel.

The Commission discussed:

- The notification policy of the City and confirmed that the preliminary plat had been properly noticed at the meeting for its original consideration;
- Whether there are any utilities in the right-of-way, and confirmed that there are none;
- That the plat would create a split-zoned parcel, and future solutions for re-zoning;
- Whether it would be possible for the City to sell right-of-way instead of allow its vacation.

**VOTE ON MOTION TO RESCIND PREVIOUS MOTION:**

Yes: Vadla

No: Smithwick, Cox, Hutchings, Janz, Baxter

\*\*Student Representative Cashman: Yes

**MOTION FAILED:** 1 Yes, 5 No

**PUBLIC COMMENTS WITHOUT PRIOR NOTICE - None**

**INFORMATIONAL ITEMS**

A. Home Rule & Planning and Zoning Authority

Czarnezki reviewed the attached items concerning the City's planning, platting, and land use powers with regards to its home rule status. The Commission discussed variance standards.

**PLANNING COMMISSIONER TRAINING AND EDUCATION - None**

**REPORTS**

A. Mayor and Council Comments

Council Member Cashman stated that the City Council passed an Ordinance to eliminate the winter sales tax holiday, and that Governor Bill Walker had been at a recent Council meeting.

B. City Manager Report

C. Director of ED&P / City Planner Report

Czarnezki updated Commissioners on the following:

- Violations on Griffin Avenue, Banner Lane, and Creek Court have been resolved, and that there will likely be action by City Council at an upcoming meeting on the 346 Riverview violation.
- The changes to the Conditional Use code approved by the Commission at a former meeting will go before Council for introduction in December.
- Staff administratively approved a site plan for Thanks a Latte, a coffee business adjacent to the Walgreens property.
- A request will go before Council at its next meeting to appropriate funds for an annexation public outreach process.
- The State is engaging stakeholders in a process to create a policy and design guideline document for bicycle and pedestrian infrastructure, and some Commissioners attended

a meeting along with other City employees and officials at 4 pm on November 2, 2016 at the Soldotna High School library to hear from the State and its Consultants on the project. Discussion ensued on how the Commission may or may not support the State's process, and whether a Resolution should be brought before the Commission.

Johnson reminded Commissioners that there is no additional meeting in November, and that the next meeting will be December 7, 2016.

#### D. Commission Comments

Commissioner Cox welcomed Commissioner Baxter to the Commission and stated that she would support a Resolution to the State regarding bicycle and pedestrian policy planning.

Commissioner Smithwick stated that she understands the State's project to be focused on policy and design guidance and welcomed Commissioner Baxter to the Commission.

Commissioner Baxter discussed the differences between planning and implementation of infrastructure for bicyclists and pedestrians and that he may not support a Resolution. He is looking forward to learning more about Planning & Zoning.

Commissioner Vadla stated that the meeting with the State's consultants to learn more about bicycle and pedestrian policy planning was a learning experience and that she could support a Resolution to the State regarding bicycle and pedestrian policy planning.

Commissioner Janz stated that he had inquired as to the situation where State capital projects are approved, but no funding is appropriated, and hopes that this planning process will address that situation. The State's consultants recognized Soldotna as having robust bicycle and pedestrian planning documents and that he looks forward to reviewing a Resolution.

#### ADJOURNMENT

There being no further business to come before the Commission, Chair Janz adjourned the November 2, 2016 Planning & Zoning Commission Meeting at 7:01 p.m. The next regular meeting is scheduled for 5:30 p.m. on December 7, 2016.

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Austin Johnson, Planning/GIS Technician

Approved by Commission: \_\_\_\_\_

*\*\*The student representative may cast advisory votes on all matters except those subject to executive session discussions. Advisory votes shall not affect the outcome of the official commission vote and shall be recorded in the minutes. A student representative may not move or second items during the commission meeting.*