

LAND DEVELOPMENT ORDINANCE TEXT AMENDMENT
Round 20, Item D (Temporary Retail Sales in Parking Lots)
Town Council Meeting
August 9, 2012

EXECUTIVE SUMMARY

The purpose of this item is to consider a proposed amendment to the Land Development Ordinance initiated in response to concerns raised by local businesses. The proposed amendment has been developed and evaluated for consistency with the Comprehensive Plan, and the opportunity for public review and comment has been provided in accordance with Section 3.4 of the Land Development Ordinance.

Land Development Ordinance Amendment Item 20-D (Temporary Retail Sales in Parking Lots) was presented for public hearing on February 23, 2012, as a component of LDO Amendment Round 23. At the Planning and Zoning Board work session on March 26, 2012, this item was referred to a second work session, held on June 11, 2012, for further discussion. The Planning and Zoning Board unanimously recommended approval of the proposed amendment by a vote of 9-0 at its meeting on July 16, 2012.

OVERVIEW

Schedule for LDO Amendment Round 20-D

Planning and Development Committee	January 19, 2012
Advertisements in <i>The Cary News</i>	February 8 & 15, 2012
Public Hearing	February 23, 2012
1 st Planning and Zoning Board Work Session	March 26, 2012
Planning and Zoning Board Meeting	April 16, 2012
2 nd Planning and Zoning Board Work Session	June 11, 2012
Planning and Zoning Board Meeting	July 16, 2012
Final Action by Town Council	August 9, 2012
Effective	Upon adoption

Current LDO Requirements

The LDO currently contains two separate provisions for the temporary sale of products on a site: the sale of agricultural products grown off-site; and, the sale/display of goods other than agricultural products. The first provision allows the sale of agricultural products from vacant property, as well as developed sites where the principal use is retail sales. The latter provision is interpreted to apply only to merchants that do not already have an established place of business in the town. The purpose of such a limitation on temporary sales is to prevent permanent seasonal expansion of businesses into parking lots or other areas without expanding their permanent facilities. Under a separate provision in the LDO, businesses with a permanent location already have the opportunity for outdoor display/sales of their own products immediately adjacent to the storefront.

Requests for Additional Flexibility

Staff has received inquiries from businesses, including Home Depot and Lowe's, about adding flexibility to the current requirements regarding the temporary sale/display of goods on an already developed site. In particular, businesses that already have a permanent location have requested the ability to temporarily sell

seasonal products (not necessarily agricultural) in location(s) on their sites that would be in addition to their storefront areas.

On August 9, 2011 the Town Council, in response to a request by staff for input and direction, directed staff to draft an LDO amendment that would enable businesses to temporarily utilize excess parking for seasonal sales.

Summary of Proposal

The initial draft amendment presented for public hearing on February 23, 2012, included:

- 1) the addition of a new section 5.3.4 (D)(2)(i) (*Accessory Uses and Structures Allowed - Location*) to allow the sale of bulk agricultural and horticultural products such as mulch and pinestraw from a parking lot, subject to specific limitations on duration, location, and area;
- 2) a reduction of the maximum time period allowed for the sales of agricultural products from 180 days per year to 90 days per year, to match the time period allowed for the sales of non-agricultural goods; and
- 3) reorganization of several existing sub-sections for the purpose of improving clarity.

The proposed use-specific standards related to the temporary sales of agricultural and horticultural products from a parking lot have been modified during the public hearing process, as described in the section below entitled "Summary of Process and Actions to Date".

FISCAL IMPACT

Adoption of the proposed amendment would require submittal of a site plan minor alteration to demonstrate compliance with the adopted standards. Additional staff time will be required to review such applications or plans, however staff believes that the overall impact of these proposed changes will be nominal, and can be absorbed by existing staff.

PLANNING AND ZONING BOARD RECOMMENDATION

At its meeting on July 16, 2012, the Planning and Zoning Board unanimously recommended approval of the proposed amendment, with a time period of March 15 to June 15 for seasonal sales.

STAFF RECOMMENDATION

1. Staff recommends that the Town Council approve LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots), with a time period of March 15 to June 15 for seasonal sales, as recommended by the Planning and Zoning Board.
2. Staff recommends that the Town Council approve Option A or Option B related to consistency and reasonableness of the proposed amendment, as stated below:

Option A *(recommended if the proposed LDO amendment is approved):*

CONSISTENCY AND REASONABLENESS STATEMENT

LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots)

THE TOWN COUNCIL OF THE TOWN OF CARY HEREBY STATES:

Section 1: LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots) is consistent with the Comprehensive Plan.

Section 2: Based upon information presented at the public hearings, and based upon the recommendations and detailed information developed by staff and/or the Planning & Zoning Board contained in the staff report, and considering the criteria of Section 3.3.3 of the Town of Cary Land Development Ordinance, approval of LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots) is reasonable and in the public interest.

Approved: *August 9, 2012*

Harold Weinbrecht, Jr.
Mayor

Date

Option B *(recommended if proposed LDO amendment is denied):*

CONSISTENCY AND REASONABLENESS STATEMENT

LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots)

THE TOWN COUNCIL OF THE TOWN OF CARY HEREBY STATES:

Section 1: LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots) is consistent with the Comprehensive Plan.

Section 2: Based upon information presented at the public hearings, and based upon the recommendations and detailed information developed by staff and/or the Planning & Zoning Board contained in the staff report, and considering the criteria of Section 3.3.3 of the Town of Cary Land Development Ordinance, denial of LDO Amendment Round 20, Item D (Temporary Retail Sales in Parking Lots) is reasonable and in the public interest.

Approved: *August 9, 2012*

Harold Weinbrecht, Jr.
Mayor

Date

PROCESS SUMMARY AND PROPOSED TEXT

SUMMARY OF PROCESS AND ACTIONS TO DATE

PUBLIC HEARING COMMENTS (February 23, 2012)

There were questions regarding standards to ensure safety if a portion of a parking lot was used for retail use.

1st PLANNING AND ZONING BOARD WORK SESSION (March 19, 2012)

There was a question regarding why the permissible duration for temporary agricultural sales was being reduced from 180 to 90 days. Staff indicated that additional information would be provided regarding this issue at the board's April meeting.

PLANNING AND ZONING BOARD MEETING (April 16, 2012)

In response to questions asked at the work session, staff explained that the proposed 90-day time limit for temporary agricultural sales was proposed in order to provide consistency between standards applicable to sales of agricultural and non-agricultural products where such sales were classified as temporary uses. It was further noted that farm markets, and any activities involving sales of agricultural products that require site plan approval, are classified as a principal rather than temporary use, and are not subject to the current 180-day time limit or the proposed 90-day time limit on the sale of agricultural products.

Additional Changes Introduced by Staff

Staff noted that the fundamental question being posed is whether or not businesses should be allowed to display and sell certain seasonal products from their parking lot and if so, what restrictions should apply. Staff shared observations concerning the manner in which several existing businesses had begun to conduct seasonal sales from their parking lots, and provided updated recommendations to more closely align the proposed amendment with actual practices. The updated recommendations were summarized in the following table:

Summary of Changes to Item D Developed By Staff After PZ Work Session	
Vehicle or Trailer	Maximum of 2 (No change)
	No Fencing (No change)
	No Signage (No change)
AND / OR	
Display Area	2000 Sq. Ft. (Previously 1500 Sq. Ft.)
	3-ft. Barrier with Defined Entrance (Previously Opaque Fence To Height Of Display)
	5-ft. Setback From Drive Aisle (New)
	General Safety Criteria For Pedestrian Access (Expanded To Minimize Need To Cross Or Walk In Drive Aisles)

Other Questions and Discussion Items

- Clarification that, as proposed, the parking spaces utilized for retail sales would only be allowed where parking in excess of the minimum requirement was available.
- General discussion regarding type of materials that could be sold, the maximum square footage that could be utilized, and the time period within which sales could be allowed.
- Concern that parking lot would also be used for sales during the fall planting season and for Christmas tree sales.

Action by Planning and Zoning Board

The Planning and Zoning Board recommended, by a vote of 9-0, that the proposed amendment be further discussed at an upcoming work session.

2nd PLANNING AND ZONING BOARD WORK SESSION (June 11, 2012)

After the Planning and Zoning Board meeting on April 16, 2012, staff met with the managers of several home improvement stores to obtain additional feedback regarding how the proposed amendment aligns with current practices. Based on input received, staff proposed further refinement to the proposed text, including extending the time period within which temporary retail sales could occur from March 1 through June 1 (90 days).

The board discussed the proposed time period that temporary sales would be allowed. Some members expressed preference for a time period from March 15 to June 15. Also discussed was the size of designated sales area, and how the proposed changes affected both large and small businesses.

PLANNING AND ZONING BOARD MEETING (July 16, 2012)

At its meeting on July 16, 2012, the Planning and Zoning Board unanimously recommended approval of the proposed amendment, with a time period of March 15 to June 15 for seasonal sales.

PROPOSED TEXT

5.3.4 ACCESSORY USES AND STRUCTURES - Accessory Uses and Structures Allowed

(D) Outdoor Display and Sales

Outdoor display and/or sale may be allowed as an accessory use for all uses requiring site plan approval. It is the intent of this Ordinance to allow the display of merchandise for sale by the merchant of the principal use, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. This shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items. The display of goods shall meet all of the following requirements:

(1) Procedural Requirements

Outdoor display and/or sale shall require approval of the Planning Director. All new site and/or subdivision plans must show the location of such areas in accordance with this section. Existing non-residential uses must submit a ~~plan sketch~~ showing the location of the outdoor display or sales areas and how the requirements of this section are to be met. Approval may be subject to appropriate conditions by the Planning Director.

(2) Where Permitted

- (a)** All outdoor display and/or sale of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots, except as otherwise provided in this Section 5.3.4(D)(2).
- (b)** The area used for outdoor display and/or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-half (1/2) of the length of the store front. In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate store front of the overall shopping center.
- (c)** The area of outdoor display and/or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is ten (10) feet, then there shall be at least a ten (10) foot clearance from the doors as projected straight out and away from the facility.
- (d)** At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that

handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

- ~~(d)~~ **(e)** No goods shall be attached to a building's wall surface.
- ~~(e)~~ **(f)** The height of the outdoor display shall not exceed six (6) feet, unless an exception to this provision has been granted by the Planning Director.
- ~~(f)~~ **(g)** The outdoor display and/or sales area shall take place on an improved surface such as the sidewalk or pavement, and be clearly marked by a contrasting paint color.
- ~~(h)~~ **(h)** Retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container is prohibited, unless explicitly allowed in this Section 5.3.4(D)(2).
- ~~(i)~~ **(i)** Sale of bulk horticultural or agricultural products such as plants, mulch and pinestraw may occur in parking lots from ~~March 15 through May 15~~ March 1 through June 1 ~~March 15 through June 15~~ of each year, subject to all of the following:
 - ~~(i)~~ **(i)** such display and/or sales may occur from a maximum of two vehicles, trailers, or shipping containers or within a designated area not to exceed ~~1500 square feet~~ and
 - ~~(ii)~~ **(ii)** such display and/or sales may occur ~~within designated parking spaces~~ outside of drive aisles within a designated area in the parking lot not to exceed ~~1500~~ 2000 square feet provided that: such spaces any parking spaces located within the designated area are in addition to the minimum number of parking spaces required for the principal use; and that the area is adequately screened on all sides to at least the height of the bulk display through the use of a berm, evergreen trees/shrubs, temporary opaque fencing or a combination thereof; such designated area is delineated by barrier at least three (3) feet in height, with a single entrance; such designated area is set back at least five (5) feet from any adjacent drive aisle; and access to such designated area is located so as to minimize the need to cross drive aisles;
 - ~~(iii)~~ **(iii)** the temporary sale of products such designated areas, vehicles, trailers or containers will not interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic; and
 - ~~(iv)~~ **(iv)** such ~~display areas~~ designated areas, vehicles, trailers or containers shall be located in a manner that minimizes visibility from public streets.

~~(3)~~ No Pedestrian Obstruction

~~At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.~~

~~(4)~~ (3) Temporary Sales Events Distinguished

~~The provisions of paragraph (2)(b) above shall not apply in cases of temporary sales events, such as weekend sidewalk sales, seasonal vegetable sales and other similar temporary uses. See Sections 5.4.6(C) and (D) for regulations applying to temporary sales.~~

Temporary sales events not meeting all requirements of this Section 5.3.4(D) may be allowed as a special event with approval of a temporary use permit in accordance with Section 5.4.7.

5.4 TEMPORARY USES AND STRUCTURES

5.4.1 Purpose

This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties or Town facilities, and provided that such uses are discontinued upon the expiration of a set time period. Temporary uses do not involve the construction or alteration of any permanent building or structure.

5.4.2 Table of Allowed Temporary Uses and Structures

Table 5.4-1 summarizes the temporary uses and structures that are allowed within the Town and any general or specific regulations that apply. Temporary uses or structures not listed in Table 5.4-1 are not allowed under this Ordinance.

TABLE 5.4-1: TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES		
Temporary Activity	Maximum Allowable Time Frame	Specific Regulations
TEMPORARY STRUCTURES		
Expansion or Replacement of Existing Facilities (including temporary offices for construction and/or security personnel) not to include temporary classroom facilities for schools	(A)	Permit Required; see Section 5.4.6(A)
Temporary Classroom Trailers	N/A	No Temporary Use Permit Required; Site Plan Required; see Section 5.2.2(C)
Portable Medical Equipment	(F)	Temporary Use Permit Required; see Section 5.4.4 and 5.4.5; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments.
Real Estate Sales Office/ Model Sales Home	(A)	Temporary Use Permit Required; see Section 5.4.6(B)
TEMPORARY SALES		
Sale/Display of Goods and Other Than Agricultural Products	(B)	Temporary Use Permit Required; see Section 5.4.6(C)
Sale of (Agricultural Products Grown Off-Site)	(C)	Temporary Use Permit Required; see Section 5.4.6(D)
Sale of Fireworks	(B)	Temporary Use Permit Required; see Section 5.4.6(E)
Garage and/or Yard Sales	(E)	Temporary Use Permit Not Required
Temporary Not-For-Profit Car Wash	(E)	Temporary Use Permit Not Required
EVENTS		
Town-Recognized Event	N/A	Temporary Use Permit Required; No fee required; Includes only those events listed in the Town Clerk's Office
Not-For-Profit Event with 100 People or More in Attendance	(D)	Temporary Use Permit Required; see Section 5.4.4; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments

Special Event with 100 People of More in Attendance	(D)	Temporary Use Permit Required; see Section 5.4.4; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments
Athletic Event at a Sports Facility	N/A	Temporary Use Permit Not Required
Block Parties	(D)	Temporary Use Permit Not Required
Other Public Events with 99 People or Fewer in Attendance	(E)	Temporary Use Permit Not Required
Private Event	N/A	Temporary Use Permit Not Required
(A)	Such structures may be in place for no more than one (1) to three (3) years.	
(B)	Such sales are limited to a maximum of ninety (90) days per calendar year with no more than three (3) occurrences per parcel per year.	
(C)	Such sales are limited to a maximum of one hundred and eighty (180) days per calendar year with no more than three (3) occurrences per parcel per year. [Reserved]	
(D)	Such events are limited to seven (7) total days per calendar year.	
(E)	Such events are limited to two (2) events per calendar year per parcel and/or no more than four (4) total days per calendar year.	
(F)	Such portable equipment shall be limited to one (1) twenty four (24) hour period per week for no more than one (1) calendar year. Depending on individual circumstances and for good cause shown, either time period may be increased or altered.	

5.4.3 Prohibited Temporary Uses [Reserved]

~~Without limiting the provisions and requirements of this Ordinance, the following activities are prohibited in all districts:~~

- ~~(A) Retail sales or display of goods, products, or services within the public right-of-way except as part of an authorized not-for-profit, special, or Town-recognized event.~~
- ~~(B) Retail sales or display of non-agricultural goods, products, or services from a motor vehicle, trailer, or shipping container. The sale and/or display of agricultural products is exempt from this requirement.~~

5.4.4 Temporary Use Permits

All temporary uses and structures that are required to obtain a temporary use permit by Table 5.4-1 shall obtain such permit pursuant to the procedures set forth in Section 3.7 of this Ordinance. A temporary use permit shall be reviewed, approved, or revoked only in accordance with the regulations of Section 3.7 of this Ordinance. Temporary uses must meet the requirements of the North Carolina State Building Code.

5.4.5 General Requirements for All Temporary Uses and Structures

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Ordinance:

- (A) The temporary use complies with all applicable general and specific regulations of this section and Section 3.7, unless otherwise expressly stated, and with all requirements of this Ordinance and applicable Town specifications.
- (B) Permanent alterations to the site are prohibited.
- (C) Signage shall comply with applicable provisions of Chapters 9 and 9B.
- (D) The temporary use or structure will not violate any applicable conditions of approval that applies to a principal use on the site.
- (E) If the property is undeveloped, it contains sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing protected resources, including required buffers.
- (F) If the property is developed, the temporary use must be located in an area that is not actively used by an existing approved principal use, and which would support the

proposed temporary use without encroaching or disturbing existing buffers or required setbacks from buffers or streetscapes, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.

- (G) Tents and other temporary structures will be located so as to not interfere with the normal operations of any permanent use located on the property.
- (H) Off-street parking is provided in accordance with the requirements set forth in Section 7.8 of this ordinance.
- (I) All inspections and permits required by applicable construction codes have been made and approved by the Inspections and Permits Department.
- (J) Applications for temporary structures to be located in or near the one percent (1%) annual chance floodplain will be required to submit a plan to the Stormwater Management Engineer for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - (1) The name, address, and phone number of the individual responsible for the removal of the temporary structures.
 - (2) The time frame prior to the event at which a structure will be removed;
 - (3) A copy of the contract or other suitable instrument with a trucking company to insure availability of removal equipment when needed; and
 - (4) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

5.4.6 Specific Regulations for Certain Temporary Uses and Structures

(A) **Expansion or Replacement of Existing Facilities.....**

(B) **Real Estate Sales Office and Model Sales Home.....**

(C) **Sale/Display of Goods and Products ~~Other Than Agricultural Products~~**

(1) ***Applicability***

The provisions of this Section 5.4.6(C) shall apply to the display and/or sale of goods and products in the Town on a temporary basis by peddlers or other merchants who do not have an established place of business. Merchants may display and/or sell goods in the Town on a temporary basis without establishing a permanent place of business, subject to the standards and requirements set forth in this section. Receipt of Peddler's Permit from the Police Department does not exempt a merchant from the need to obtain a temporary use permit for such sales.

(2) ***Location***

The temporary sale/display of goods and products by merchants without an established place of business shall be limited to the following locations, provided that such sales/display are not located closer than two hundred (200) feet to an occupied residential dwelling unit.

<u>Table 5.4-2 Locational Requirement for Temporary Sale/Display of Goods and Products by Merchants Without Established Place of Business</u>	
<u>Location</u>	<u>Type of Sales Allowed</u>
<u>Developed site where principal use is Retail Sales</u>	<u>All goods and products</u>
<u>Developed outparcel immediately adjacent to developed site where principal use is Retail Sales</u>	<u>All goods and products</u>

<u>Public property or public right-of way</u>	<u>All goods and products at authorized not-for-profit, special, or Town-recognized event upon approval of the Planning Director, or</u>
<u>Vacant lot in R-80, R-40 or non-residential zoning district, with frontage on major arterial or collector roadway</u>	<u>Agricultural products grown off-site</u>

- ~~(a) the outdoor display and/or sale of goods consistent with the provisions in Section 5.3.4(D) is considered as an accessory use and does not need to obtain a temporary use permit.~~
 - ~~(b) the proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within two hundred (200) feet of an occupied residential dwelling unit.~~
 - ~~(c) **Commercial Sales**
A temporary display or sale of goods for commercial purposes shall take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel of such a site;~~
 - ~~(d) **Non-Commercial Sales**
A temporary sale of goods for public or institutional purposes may take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel of such a site. Upon approval of the Planning Director, such sales may take place on public property, including: public parks owned or maintained by the Town, public street rights-of-way, any other property owned by the Town, a special district, or other political subdivision of the State of North Carolina.~~
- (3) **Similar Products, Goods, and Services**
A temporary display or sale of products, goods and/or services for commercial purposes, with the exception of the sale of agricultural products grown off-site, and the sale of fireworks and pyrotechnics, shall be limited in scope to similar or complimentary products, goods, and/or services to those offered by the existing principal use located upon the same site. ~~The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.~~
- (4) **Submittal Requirements**
The operator of the temporary sale of products, goods and/or services shall provide the Planning Department with the following:
- (a) written permission from the property owner.
 - (b) a sketch plan showing:.....
- (5) **Hours of Operation**
The hours of operation of the temporary sale of products shall be from no earlier than 7:30 am to no later than 10:00 pm, or the same as the hours of operation of the principal use, whichever is more restrictive.
- (6) **Duration; Sales per Year**
- (a) The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than ninety (90) total days per calendar year.
 - (b) The number of temporary sales of products per site per calendar year shall not exceed three (3). For the purposes of this section, "site" shall mean the entire parcel, including out-parcels, whether it is a single tenant, multi-tenant, or shopping center use.

(7) Requirements

The Planning Director shall issue a temporary use permit for the temporary display and/or sale of products if the proposed use satisfies the following requirements:

- (a) The property contains an area that is not actively used which would support the proposed temporary sale of products without encroaching into or disturbing existing buffers, open space, landscaping, or traffic movements.
- (b) Tents and other temporary structures will be located so as not to interfere with the normal operations of any permanent use located on the property.
- (c) All tents and other temporary structures shall match the predominant color of the principle structure on the premises or be of a neutral or earth tone color.
- (d) The temporary use will not occupy any existing parking required for the principal use.
- (e) The temporary sale of products will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic.
- (f) All inspections and permits required by applicable construction codes have been made and approved by the Planning Department.
- (g) Retail sales or display of non-agricultural goods, products, or services from a motor vehicle, trailer, or shipping container is prohibited.
- (h) all signs, temporary structures, tents, and other materials associated with the temporary sales shall be removed within 48 hours of cessation of the sales event.

~~(D) Sale of Agricultural Products Grown Off-Site~~

~~(1) Agricultural Products Defined~~

~~For the purposes of this section, agricultural products are defined as products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; and dairy products. For the purposes of this section, processed or prepared food products of any kind shall not be considered as agricultural products.~~

~~(2) Approval Criteria~~

- ~~(a) The temporary sale of agricultural products grown off-site may be allowed subject to issuance of a temporary use permit pursuant to Chapter 5 of this Ordinance. Temporary sales of agricultural products shall meet all requirements for temporary sale of non-agricultural goods set forth in Section 5.4.5(C) above; however, the temporary sale of agricultural products for commercial purposes may occur from a vacant lot, in addition to a developed site where the principal use is retail sales.~~
- ~~(b) The temporary sale of agricultural products grown off-site is exempt from the requirement for similar products, goods, or services to those offered by an existing principal use as required under the provisions for the temporary sale of non-agricultural products.~~
- ~~(c) The temporary sale of agricultural products grown off-site may be accomplished from a vehicle, trailer, or shipping container, provided such vehicle, trailer, or container is located in accordance with the provisions of Section 5.4.6(C) of this Ordinance.~~
- ~~(d) The temporary sale of agricultural products grown off-site shall be allowed on an individual parcel or site for no more than one hundred eighty (180) total days per calendar year.~~

~~(e) The number of temporary sales of agricultural products per site per calendar year shall not exceed three (3).~~

~~(E) Sale of Fireworks~~

~~(1) Approval Criteria~~

~~The temporary sale of fireworks may be allowed subject to issuance of a temporary use permit pursuant to Chapter 3 of this Ordinance. Temporary sales of fireworks or other pyrotechnics shall meet all requirements for temporary sale of non-agricultural goods set forth in Section 5.4.6(C) above; however, the temporary sale of fireworks or pyrotechnics are exempt from the similar product provisions which apply to the sale of other non-agricultural products.~~

~~(F) (D) Temporary Structures In or Near the Flood Hazard Area.....~~

12.4 RULES OF CONSTRUCTION, USE CLASSIFICATIONS, AND DEFINITIONS

AGRICULTURAL PRODUCTS

Products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pinestraw; bees and beekeeping products; seafood; and dairy products. For the purposes of this section, processed or prepared food products of any kind shall not be considered as agricultural products.

SPECIAL EVENT

Any organized event, specifically including, but not limited to, a temporary sales event accessory to a principal use, or a circus, carnival, cultural event, fair, party, communal camping, or celebration, which reasonably may be expected to attract more than 100 persons at any one time, or which otherwise may reasonably be expected to increase the risk of:

- Damage to public or private property, beyond normal wear and tear;
- Injury to persons;
- Public or private disturbances or nuisances;
- Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;
- Significant additional police, fire, trash removal, maintenance, or other public services demands; or
- Other significant adverse effects upon the public health, safety, or welfare.

The term "special event" shall not include any organized activities conducted at sites and facilities that are legal uses and structures under this Ordinance and that are typically intended and used for such activities. Examples of such activities include, but are not necessarily limited to, sporting events such as 10K runs not held on public rights-of way, golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at places of worship; or noncommercial activities occurring within, or upon the grounds of, a private residence or upon the common areas of a multi-family residential development.

5.4.7 Events

(B) Types of Events

(3) Special Event

Special events are any organized event, specifically including, but not limited to: a temporary sales event accessory to a principal use, or a circus, carnival, cultural event, fair, celebration, communal camping, ground-breaking, grand opening, religious service, musical or other show, which reasonably may be expected to attract one hundred (100) or more persons, but which do not meet the criteria of a Town-recognized event or a not-for-profit event.