

**BOARD OF TRUSTEES**  
Gary Wall, Supervisor  
Kim Markee, Clerk  
Steven Thomas, Treasurer  
Anthony M. Bartolotta, Trustee  
Marie Hauswirth, Trustee  
Janet L. Matsura, Trustee  
Mark Monohon, Trustee



5200 Civic Center Drive  
Waterford, Michigan 48329-3773  
Telephone: (248) 674-6238 Fax: (248) 674-4097  
www.waterfordmi.gov

**DEVELOPMENT SERVICES  
DEPARTMENT**

Dave Hills  
Superintendent of Building  
Division

Jeffrey M. Polkowski, AICP  
Superintendent of Planning &  
Zoning Division

## **MEMORANDUM**

Date: May 2, 2022

To: Honorable Township Board

From: Jeffrey M. Polkowski, Superintendent of Planning and Zoning

RE: 2022-Z-008 Text Amendment: Temporary Uses

---

This proposed Zoning Ordinance Text Amendment provides a long needed clarification to Temporary Uses within Waterford Township.

Although it appears that Temporary Uses within the Township have been intended for uses accessory to an existing principal use, this has not necessarily been made clear in the Zoning Ordinance as written, and therefor historically, has not been adhered to. Staff is proposing a simple name change to this existing definition for Temporary *Accessory* Uses.

Additionally Township staff is proposing to break out Temporary *Principal* Uses, both *Transient Merchant* and *Non-Transient Merchant*. The intent is to clarify temporary uses that are not accessory to a principal use, but also not retail of any kind (examples include the temporary storage of bulk soil, utility wiring, etc). Historically, the Township has been allowing Temporary Principal Non-Transient uses to operate, even though there seems to be no clear definition allowing them. Township staff seeks to remedy this with these new amendments. The definition of a Transient Merchant from *Public Act No. 51 of 1925* was used to identify what is considered one and what is not.

Township staff has also proposed removing language in the ordinance that requires Temporary Accessory Uses, to limit their use to 12 days a month. This has been proposed because this ordinance forces businesses to remove and put back their temporary use periodically every few days. This is an act that is difficult for the Code Enforcement Division to administratively police and doesn't appear to serve any real benefit to the community. Staff recommends keeping the existing cap of 144 days however.

### **Planning Commission Recommendation and Findings**

The Planning Commission reviewed this proposed Zoning Ordinance amendment at the regularly scheduled meeting on April 26, 2022 and resolved unanimously, to forward a favorable recommendation to the Township Board.

**With us there are no  
boundaries**

**Motions**

Based upon the Planning Commission's favorable recommendation at the April 26, 2022 regular meeting for this Zoning Ordinance amendment, should the Board want to consider adopting the requested Zoning Ordinance amendment, the appropriate motion would be to introduce the attached Ordinance and schedule it for possible adoption at the May 23, 2022 meeting. However, if the Board does not want to adopt the requested Zoning Ordinance amendment, the appropriate motion would be to not introduce the Ordinance and deny the amendment.

Should you have any questions prior to Monday's meeting please do not hesitate to reach out to me.

**USE.** The specific purpose and activity for which a zoning lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupied or maintained, or any activity, occupation, business or operation carried on, or intended to be carried on, and "used" shall have a corresponding meaning. Specific classifications of use shall be defined as follows:

**Accessory Use.** A use, subordinate to and customarily incidental to the principal use, that is conducted on the same zoning lot as the principal use to which it is related (whether located on the zoning lot, within the principal building, or within an accessory building), except where the Zoning Ordinance specifically provides for an accessory use off-site. For the purpose of this Zoning Ordinance, specific classifications of accessory uses shall be defined as follows, including but not limited to:

**Accessory Dining.** An accessory use where a restaurant establishment is located within a building containing a different principal use.

**Accessory Office.** An accessory use, such as those listed under the definition of *Error! Reference source not found.* in this Section, where a branch office of an office establishment is located within a building containing a different principal use.

**Outdoor Sales Display Area.** An accessory use specific to retail establishments, where allowed by this Zoning Ordinance and identified on an approved site plan, providing an area of a zoning lot used for exhibiting in an orderly manner merchandise or products sold by the retail establishment on the same zoning lot.

**Outdoor Storage Facility.** An accessory use for commercial and higher intensity use zoning districts providing for the outdoor storage of supplies, equipment, or vehicles in good repair that are used in conjunction with the principal use located on the same zoning lot.

**Ancillary Use.** A use which supports the principal use of a building located on the same zoning lot and which does not diminish the ability of the principal use to fulfill its mandate. For the purpose of this Zoning Ordinance, specific classifications of ancillary uses shall be defined as follows, including but not limited to:

**Ancillary Office.** An ancillary use providing office services, such as those listed under the definition of *Error! Reference source not found.* in this Section, for an establishment or facility.

**Factory Outlet.** An ancillary use where the products manufactured on the same zoning lot are offered for wholesale or retail sale.

**Fueling Facility.** An ancillary facility providing fuel through a fuel dispensation system for vehicles used as part of a principal use on the same zoning lot.

**Propane Filling Facility.** An ancillary facility providing propane fuel through a dispensation system into portable containers.

**Complementary Use.** A use in close proximity to another use that serves to accompany and complement such use.

**Existing Use.** The use of a zoning lot, building, and/or structure at the time of the enactment of this Zoning Ordinance.

**Nonconforming Use.** A use which lawfully occupied a building or zoning lot at the time of the effective date of this Zoning Ordinance or an amendment to this Zoning Ordinance, or where *Error! Reference source not found.* is applicable, that does not conform to the use regulations of the district in which it is located.

**Permitted Use.** A use which may be lawfully established on a zoning lot in a particular zoning district or districts provided it conforms with all requirements, regulations, and standards of such zoning district.

**Principal Use.** The main or primary purpose for which a zoning lot, building, or other structure is designed, arranged, or intended, or for which may be used, occupied or maintained under this Zoning Ordinance. The use of any other building, other structure and/or section of the same zoning lot and incidental or supplementary thereto and permitted under this Zoning Ordinance shall be considered an accessory use. A principal use may be a permitted use, nonconforming use, or a special approval use.

**Temporary Accessory Use.** A use conducted in conjunction with the principal use on a zoning lot for a specific and limited time period to enhance or promote the principal use. For the purpose of this Zoning Ordinance, the following definitions shall apply, including but not limited to:

**Garage Sale, or Yard Sale.** The temporary use of a private garage or yard by the residents of the dwelling on the same zoning lot for the non-commercial sale of personal property.

**Promotional Use.** A temporary use conducted for the purposes of promoting business sales through the use of temporary signage or events, established for a fixed period of time with the intent to discontinue such activity upon the expiration of the time period.

**Sidewalk Established Business Sale.** A promotional use conducted by established businesses involving the outdoor display of its merchandise on a sidewalk adjacent to the building in which such business is normally conducted.

*Special Event.* Use of a zoning lot for purposes unrelated to the principal use on the zoning lot, for a limited time period, generally for a fundraiser, exhibition, fair, carnival, religious or music festival, or public auction conducted by a municipality.

*Temporary Retail Food Establishment.* A temporary use that operates at a fixed location for a temporary period of time in connection with a special event or promotional use.

*Temporary Storage.* A temporary use of a portion of a zoning lot for storage of items or materials while the principal building is being constructed, expanded, renovated, or rebuilt.

**Temporary Principal Use, Non-Transient.** A principal use conducted on a zoning lot for a specific and limited time period that does not engage in the temporary sale of retail sale of goods, wares, or merchandise, in any place in this state and who, for the purpose of conducting business, occupies any lot, building, room, or structure of any kind.

**Temporary Principal Use, Transient-Use.** Use of a zoning lot by transient merchants as defined and regulated by **Waterford Code of Ordinances, Transient Merchants** and *Error! Reference source not found.* of this Zoning Ordinance.

#### 4-013.3 Standards for Temporary Use Reviews.

- A. An applicant(s) may substitute a mortgage survey in place of the certified survey (*See item Error! Reference source not found. under the subheading Error! Reference source not found. under Error! Reference source not found. in Error! Reference source not found.*).
- B. Temporary uses shall comply with all performance standards required under *ERROR! REFERENCE SOURCE NOT FOUND.*, *ERROR! REFERENCE SOURCE NOT FOUND.*.
- C. A temporary use that is a grand opening for a new business or a private not-for-profit event may be permitted by the Zoning Official for no more than thirty-one (31) consecutive calendar days. All other temporary uses **may be permitted by the Zoning Official for up to twelve (12) days each calendar month, so that each zoning lot is** are limited to holding temporary uses on no more than a combined total of one hundred forty-four (144) days during each calendar year. **The Zoning Official may consider requests from applicant(s)s proposing to consolidate two of its twelve (12) day periods for a combined two calendar month period, as long as no more than three such combined periods are granted during a calendar year. (Effective 11/03/2012)**
- D. All equipment, materials, goods, poles, wires, lighting, signs and other items associated with the temporary use shall be removed from the exterior of the premises within two (2) business days of the expiration date of the temporary use permit.
- E. If a private sidewalk or pedestrian way in front of a building is used for display of merchandise as part of an approved temporary use, a minimum width of four (4) feet must remain unobstructed for pedestrian use.
- F. Temporary signs pertaining to the temporary use may be allowed during the permitted time frame of the temporary use if such signs have been identified and approved through the temporary use permit. The number, size, location, and type of temporary signs permitted to be used in conjunction with a temporary use shall be in accordance with the zoning district in which the subject zoning lot is located.
- G. In no case shall any items related to temporary uses be displayed within the public right-of-way or interfere with the clear vision area.
- H. Temporary uses, if in a parking lot, shall not reduce the number of parking spaces available to less than that required for the principal use.
- I. Temporary uses shall be limited to the hours on the application, which shall be no earlier than 7 a.m. and no later than 10 p.m.
- J. The ZBA may permit variances from subparagraphs A through I herein.

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CHARTER TOWNSHIP OF WATERFORD  
ORDINANCE NO. 2022-Z-008

**TEXT AMENDMENT TO ZONING ORDINANCE**

An Ordinance to amend the Waterford Township Zoning Ordinance No. 135-A (“Zoning Ordinance”) Definitions and Section 4-013.3 Temporary Use Review Procedures and Requirements to clarify the process for temporary use review.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

**Section 1 of Ordinance**

The definition of Temporary Principal Use, Non-Transient and Temporary Principal Use, Transient shall be added to Section 1-007 of the Zoning Ordinance, to read as follows:

*Temporary Principal Use, Non-Transient.* A principal use conducted on a zoning lot for a specific and limited time period that does not engage in the temporary sale of retail goods, wares, or merchandise, in any place in this state and who, for the purpose of conducting business, occupies any lot, building, room or structure of any kind.

*Temporary Principal Use, Transient.* Use of a zoning lot by transient merchants as defined and regulated by **Waterford Code of Ordinances, Transient Merchants and Section 4-012** of this Zoning Ordinance.

**Section 2 of Ordinance**

Section 4-013.3 .1 of the Waterford Township Zoning Ordinance that Temporary lists Use Review Procedures and Requirements shall be amended in to read as follows:

**4-013.3. Standards for Temporary Use Review.**

Sections A-B (unchanged)

C. A temporary use that is a grand opening for a new business or a private not-for-profit event may be permitted by the Zoning Official for no more than thirty-one (31) consecutive calendar days. All other temporary uses are limited to no more than a combined total of one hundred forty-four (144) days during each calendar year.

Sections D-J (unchanged)

**Section 3 of Ordinance**

The effective date of this Ordinance shall be on the 8<sup>th</sup> day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

**CERTIFICATION**

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on May 9, 2022.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kim Markee, Township Clerk