

## ORDINANCE NO. 2014 - 11

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, REPEALING CHAPTER 32, ZONING AND LAND DEVELOPMENT CODE, DIVISION 20, "TEMPORARY USES" AND RE-CREATING DIVISION 20, "TEMPORARY USES"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, at a special meeting on July 19, 2011, the City Commission requested collaboration of Police, Fire and Development Services to agree on policies regarding late fees for temporary use permits submitted by large venues; and

**WHEREAS**, Staff determined that the application process was confusing for residents, and an expedited review process was needed; and

**WHEREAS**, currently, the definitions as well as the provisions of Division 20, Temporary Uses, need to be revised to address ambiguity, uses unaccounted for, submittal processes and penalties; and

**WHEREAS**, City Administration has reviewed the current policies regarding Temporary Uses and recommends Chapter 32, Zoning and Land Development Code of the City of Hallandale Beach should be amended to repeal and re-create Division 20, Temporary Uses; and

**WHEREAS**, pursuant to Section 2-231 of the City's Code of Ordinances, the Planning and Zoning Board shall review and make advisory recommendations to the City Commission with regard to the Zoning and Land Development Code Amendments; and

**WHEREAS**, the Mayor and City Commission have determined it is in the best interest of the City that Chapter 32, Zoning and Land Development Code of the City of Hallandale Beach should be amended to repeal and re-create Division 20, Temporary Uses.

**NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF HALLANDALE BEACH, FLORIDA:**

**SECTION 1.** Chapter 32, Zoning and Land Development Code of the City of Hallandale Beach shall be amended to repeal and re-create Division 20, Temporary Uses, as follows:

**DIVISION 20. TEMPORARY USES**

**Sec. 32-701. - Generally.**

Certain uses of land are temporary in character. They vary in type and degree, as well as in length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present negative impacts involving potential incompatibility with existing and projected permitted or permissible uses. It is the intent of this division to classify temporary uses and to provide for permitting, administration and control of such uses according to several classifications herein. Except as otherwise provided in this chapter, temporary uses shall be governed by this division.

**Sec. 32-702. - Permit required.**

(a) No person shall operate a temporary use within the city without first obtaining a temporary use permit. A temporary use shall include, but not be limited to:

(1) Events held indoors and promotional events that change the city approved occupancy or capacity of the facility.

(2) Special events that involve street closures or include event components requiring the coordination of a number of city departments or other agencies, or involve activities such as the use of alcohol, on-site commercial cooking, food sales or large scale temporary structures.

(3) Outdoor sales of a temporary nature including, but not limited to:

- a. Sidewalk sale, except as provided in Sec. 32-168, as amended.
- b. Seasonal sale in B-G, Business General district or a less restrictive district.
- c. Grand opening sale.
- d. Going out of business sale.
- e. Fundraising sale and similar gatherings.
- f. Any other off-premises sale or exhibition.

(4) Outdoor special events including, but not limited to:

- a. Concerts.
- b. Festivals.
- c. Parades
- d. Carnivals.
- e. Athletic events, walks or races.
- f. Flea markets or farmer's markets.
- g. Outdoor community events, such as, a block party, and
- h. Other similar uses of a temporary nature, not specifically permitted by this Chapter, as determined by the city manager.

(b) A recurring event is a temporary use generally requiring a temporary use permit, and occurs a minimum of four (4) times a year and meets the same conditions outlined in Sec.

32-703. A recurring event, pursuant to Sec. 32-702(a), is permitted on properties zoned Community Facilities (CF), Planned Local Activity Center (PLAC), Commercial Recreational Active (CR-A) and Fashion Art & Design Overlay District, which shall be eligible for an annual permit. Such permit may be issued on a fiscal year basis.

**Sec. 32-703. - Application.**

Applications for a temporary use permit shall be submitted to the city not less than forty (45) days or if city commission approval is required, sixty (60) days, prior to each permitted temporary use. All temporary use permit applications shall include, but not be limited to, the following information:

- (1) Event dates.
- (2) Nature of event.
- (3) The number of expected attendees (vendors and support staff).
- (4) Specific hours of operation.
- (5) Notarized statement from property owner authorizing the proposed temporary use on the property.
- (6) Alcohol distribution requested, if applicable.
- (7) A site plan, which shows the location, layout of the event, and pedestrian circulation pattern.
- (8) A list of all temporary structures to be used during the event, including signs, tents, booths, concession areas, waste removal facilities, sanitary facilities, utilities, such as temporary electrical and telephone facilities, emergency medical facilities, carnival rides, fencing, and any other information requested by the city. All temporary structures require a separate permit, unless expressly exempt by other city, county or state regulations. Proof of application for permits as required for the operation of temporary uses should be provided upon application for the temporary use permit.
- (9) General liability insurance or indemnification declaration, pursuant to Sec. 32-704.
- (10) Other reasonable information deemed by the city manager to be necessary for an adequate evaluation of the proposed event.

**Sec. 32-704. -- Indemnification and Insurance required.**

- (a) A temporary use permit holder for events held on city property shall provide comprehensive general liability insurance in an amount determined by the city. Proof of such insurance, naming the city as an additional insured party, shall be provided to the city prior to the issuance of a temporary use permit.
- (b) A temporary use permit holder for events held on city property shall indemnify and hold the city harmless on forms approved by the city attorney and the risk management department.

**Sec. 32-705. -- Conditions for permit approval.**

A temporary use permit shall be issued upon the city manager's determination that:

- (a) The temporary use application is complete in all material respects, and all information contained therein is accurate.



- 125 (b) All conditions set forth in the conditions imposed by the city, if any, have been fully met  
126 and all laws complied with.
- 127 (c) The temporary use will not interfere with or unduly burden the city's provisions of municipal  
128 services to the community, including but not limited to police, fire, emergency medical  
129 services, water and sanitary sewer service and solid waste removal.
- 130 (d) The areas utilized for any temporary use will be cleaned following any temporary use, and  
131 in all respects restored to a clean condition within 24 hours after the close of the event.
- 132 (e) Surrounding and nearby properties are suitably protected from adverse conditions that  
133 may reasonably be expected to result from the proposed use.
- 134 (f) The proposed use is not likely to create hazardous vehicular or pedestrian traffic  
135 conditions, or result in traffic in excess of the capacity of streets serving it.
- 136 (g) Adequate off-street parking is available.
- 137 (h) All other applicable laws and regulations of the city and of any other regulatory body or  
138 agency have been complied with.
- 139 (i) The health, safety and welfare of the public are not threatened in any way by the conduct  
140 of the temporary use.
- 141 (j) The city manager reserves the discretion to deny any application for a temporary use  
142 permit.
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144 **Sec. 32-706. – Payment for city support services; user fees; security bond.**

145 The city may require that, as a condition precedent to issuance of a temporary use permit, the  
146 applicant pay to the city it's cost in providing services in support of the temporary use, and  
147 may require that the applicant pay a user fee for the use of public property. A refundable  
148 security bond, or similar financial pledge may be required in an amount to be determined by  
149 the Development Services Department director or designee to ensure that any damage that  
150 occurs during the temporary use is repaired and the premises returned to its previous  
151 condition.

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153 **Sec. 32-707. – Approval of permit.**

- 154 (a) All permitted temporary uses require the city manager's approval. A temporary use of  
155 significant scale, such as a concert, parade or carnival, may additionally require notice to  
156 the city commission.
- 157 (b) Concerts ending after midnight shall require city commission approval.
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162 **Sec. 32-708. - Duration and frequency of permit.**

- 163 (a) No more than four (4) temporary uses per establishment shall be permitted within the fiscal  
164 year at the same location, except for events specified in Sec. 32-702(b), sidewalk sales  
165 and properties zoned CF, PLAC, CR-A and Fashion Art & Design Overlay Districts.
- 166 (b) Each temporary use permit shall be issued for a specific period of time not to exceed five  
167 (5) days or, in the case of a seasonal sale such as that of Christmas trees and pumpkins,

thirty (30) days. A temporary use permit may be approved by the city manager for a period greater than five (5) days, but not in excess of thirty (30) days, upon finding that such increased duration will not adversely impact the city and that the conditions of section 32-705 have been met.

- (c) Sidewalk sales shall not be permitted within six (6) months of each occurrence, and shall not last more than seventy two (72) hours.
- (d) The violation of any of the conditions of a temporary use permit shall be subject to immediate revocation of the permit. It shall be unlawful for any person to continue a temporary use after the permit has expired or been revoked. The duration and frequency of a temporary use permit and annual permits may be altered as determined by the city manager.

#### **Sec. 32-709. – Fees, Penalties and Appeals.**

Each applicant shall submit a non-refundable application fee with the initial application to help defray the city's cost of processing the application and coordinating with the relevant city services and personnel. The fee for an annual event permit shall be established by resolution. Application, permit and penalty fees in association with temporary use are on file in the Development Services Department.

- (a) The filing fee shall accompany each application for a temporary use permit.
- (b) Late application. Any application submitted less than forty five (45) days prior to the date of the event, or less than sixty (60) days, if city commission approval is required, except outdoor sales temporary uses pursuant to Sec.32-702(a)(3) submitted less than thirty (30) days prior to the event, shall be considered a late application and charged an additional fee.
- (c) After-the-fact penalties and fees. Any event held without a permit shall be assessed an after-the-fact penalty fee set forth by resolution, in addition to the application and permitting fees. Temporary use activities held without a permit shall be subject to a cease-and-desist upon determining that such event presents a threat to the health, safety and welfare of the public and adjoining properties. No new temporary use permit shall be issued until a permit and penalty fees have been paid.
- (d) Penalties. Should any temporary use occur without prior acquisition of a temporary use permit or should any approved permit for temporary uses violate any condition of the approved permit or any section of this division, it shall be subject to progressive penalty fees set forth by Resolution. Penalties shall be established for violations occurring within twelve (12) months of the fiscal year.
  - (1) For the first violation of the Code, the property owner shall be charged the established penalty fee, in addition to the application and permitting fees.
  - (2) For the second such violation, the penalty fee shall be doubled.
  - (3) For the third such violation, the penalty fee shall be quadrupled.
  - (4) For the fourth such violation, applications shall be withheld for temporary use permits on the property for a period of one (1) year.

The property owner shall be responsible for payment of all penalty fees should the applicant default. Each penalty shall be determined by the city manager after reviewing the available information.

- (e) Appeals. Should the applicant or property owner be aggrieved by the decision of the city manager, (s)he may appeal to the city commission. Such appeal shall be submitted in

214 writing within ten (10) days of receipt of notification of the decision, and shall state the  
215 reasons why the aggrieved entity is appealing. Each appeal shall be accompanied by the  
216 fee set forth by the city to cover the cost of appeal proceedings, pursuant to Sec. 32-825.  
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218 **Sec. 32-710. – Revocation of Temporary Use Permits.**

219 A temporary use permit may be revoked by the city manager for failure of the special permit  
220 holder to comply with any of the provisions of this division or any other local, state or federal  
221 law governing the event. A temporary use permit may also be revoked by the city manager if  
222 such revocation is in the best interest of the city, based on emergency, disorder or other  
223 unforeseen condition in order to maintain the public safety, health and welfare of its citizens.

224 Revocation of an annual temporary use permit shall apply to all subsequent events approved  
225 on the annual temporary use permit.

226 All temporary use signage and advertising shall be immediately removed upon revocation of  
227 related temporary use permit.

228 **Secs. 32.711- 32-730. - Reserved.**

229 **SECTION 2. Conflict.** All ordinances or portions of the Code of Ordinances of the City of  
230 Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent  
231 of such conflict.

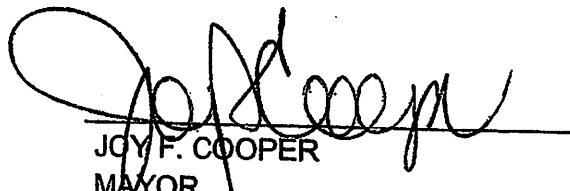
232 **SECTION 3.Servability.** Should any provision of this ordinance be declared by a court of  
233 competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a  
234 whole, or any part thereof, other that the part declared to be invalid.

235 **SECTION 4. Codification.** It is the intention of the Mayor and the City Commission that  
236 the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such  
237 intention the words "ordinance" or "section" may be changed to other appropriate words.

238 **SECTION 5.** This Ordinance shall take effect immediately upon adoption on second  
239 reading.

240 PASSED on First Reading on March 19, 2014.

241 PASSED AND ADOPTED on Second Reading on April 2, 2014.

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JOY F. COOPER  
MAYOR


249 SPONSORED BY: CITY ADMINISTRATION  
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ATTEST:

  
SHEENA D. JAMES, CMC  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY FROM

  
V. LYNN WHITFIELD  
CITY ATTORNEY