



Planning & Building Department
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549-1968
Tel. (925) 284-1976
<http://www.ci.lafayette.ca.us>

APPLICATION FOR TEMPORARY LAND USE PERMIT INSTRUCTIONS TO APPLICANTS

GENERAL

The Planning Director may conditionally approve the temporary sale of perishable materials from vehicles or temporary sales facilities in any zoning district, pursuant to the regulations set forth in Section 6-529 Temporary Sales.

Pursuant to Section 6-529, the following conditions apply:

§6-529 Temporary sales.

Notwithstanding other provisions in this title, the temporary sales of perishable goods from vehicles or from temporary structures or facilities may be conducted subject to written conditional approval of the planning director for each such use, and subject to the restrictions contained in this section.

- (a) The planning director may authorize the conduct of these uses in any zoning district except the RB and SRB districts, provided that:
 - (1) The property fronts on Mt. Diablo Boulevard, Moraga Road, St. Mary's Road, Pleasant Hill Road or Deer Hill Road;
 - (2) The property owner gives written consent thereto;
 - (3) The use will, in the planning director's opinion, neither create nor aggravate a traffic hazard nor a parking problem; and
 - (4) Not more than two advertising or identification signs, totaling not more than 50 square feet in total area, and not more than 25 square feet in area for a single sign, are displayed.
- (b) A person who desires to conduct a temporary sale as defined in this section shall submit a written application therefore, in a form acceptable to the planning director, and containing such information as he may reasonably require.
- (c) There shall be a nonrefundable application fee for the processing of an application submitted pursuant to this section. The city council shall by resolution prescribe the amount of said fee, or the method of calculating it.
- (d) Approval of a temporary sales use shall be for not more than three months, subject to reconsideration by the planning director and renewal by him for additional periods of three months each.
- (e) The planning director may impose reasonable conditions on such temporary sales uses. Such conditions may include, but are not limited to, restricting the days and/or hours of operation, prescribing the appearance, location and size of signs, controlling the locations for customer and employee parking, limiting the scope or size of the activity, requiring a minimum number of persons to be on duty, controlling refuse collection and

cleanup of the premises, and prescribing the appearance of the vehicles, structures or facilities to be used.

- (f) Upon request by any person, the planning director shall refer the application for conduct of temporary sales to the planning commission for action.
- (g) The temporary sales allowed by this section are exempted from the provisions of this title which may otherwise be in conflict with the provisions of this section.
- (h) The provisions in this section shall not exempt these temporary uses, their structures or facilities, from the requirements of any applicable construction code, nor from any applicable health or safety law or ordinance.
- (i) This section is not intended to prohibit permanent sales from movable structures, such as carts, kiosks, etc., if such sales are conducted pursuant to the necessary permits under this chapter; or the conduct of special events for short periods of time, if such special events are conducted pursuant to the necessary city approvals.

(Ord. 281 § 1, 1982)

PROCEDURES

Step 1 Pre-application

Prior to applying for a temporary land use permit, a prospective applicant should discuss his/her plans with Planning staff to understand what regulations apply to the subject property and proposed land use. Once it is determined that a temporary land use permit can be applied for, the applicant should carefully complete the application and be sure that all submittal requirements and the application, signed by the current property owner, are submitted. Before turning in a completed application, it is advisable to call the Planning & Building Department to schedule a pre-submittal meeting. A planner will review your submittal packet to insure that it is complete.

Step 2 Filing the Application

The applicant should carefully complete the application and be sure that all submittal requirements, site plans and fees are provided, and that the application is signed by the current property owner. Before turning in a completed application, it is advisable to call the Planning & Building Department to schedule a pre-submittal meeting. A planner will review your submittal packet to insure that it is complete and forward the application to the Zoning Administrator for review.

Step 3 Zoning Administrator Review

A temporary land use permit does not require a noticed public hearing before the Planning & Building Services Manager, acting as Zoning Administrator. The Planning & Building Department Manager may approve the application as submitted, conditionally approve it, deny the application or request additional information.

The Planning & Building Department Manager's action is based on the information contained in the application, site visits, and the Lafayette Municipal Code.

The applicant or any other aggrieved party may appeal in writing to the Planning Commission the action of the Planning & Building Department within fourteen (14) calendar days following the Planning & Building Department's action. If the action is not appealed, the Planning Department Manager's action is effective on the **fifteenth day**. The fee for an appeal is the same as the original fee. There is no prescribed application form for an appeal. A letter clearly identifying the action being appealed and the reasons for the appeal is appropriate.

Step 4 Planning Commission Review *(Applicable in the case of an Appeal)*

Upon receipt of an appeal from the decision of the Planning & Building Department Manager, a new public hearing before the Planning Commission will be scheduled. The same legal notification required for the Planning & Building Department Manager will be repeated (see Step 3). The applicant and appellant should be present at the new public hearing to make a presentation and answer questions, as necessary. Any other interested party may also submit testimony. After close of testimony, the Planning Commission will make a decision on the proposed variance, or if necessary, continue the matter to a future meeting. The action taken by the Planning Commission will stand unless it is further appealed in writing to the City Council within fourteen (14) calendar days. There is an additional fee of 100% of the original fee for a further appeal.

Step 5 City Council Review *(Applicable in the case of an appeal of a Planning Commission action).*

The appeal process to the Council parallels the action taken above (Step 4) regarding an appeal to the Planning Commission. The action taken by the City Council is final.

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APPLICATION FOR TEMPORARY LAND USE PERMIT SUBMITTAL REQUIREMENTS

The following is a list of minimum submittal requirements. Additional materials may be required at the discretion of the Planning staff or City Commissions.

- 1. Completed application form, including the signature of the applicant and current property owner.
- 2. Required fee or deposit* and Statement of Understanding (if applicable) as set by City Council (**actual fee is based on amount of staff time required for processing the application*). Make check payable to **City of Lafayette**.
- 3 One (1) copy of a site plan based on a current survey showing the following: (*additional copies will be necessary for consideration by a City Commission*).
 - a. North arrow and scale, clearly shown.
 - b. Layout of proposed vending site.
 - c. All existing and proposed structures, including sales vehicles and carts.
 - d. Property lines, dimensions, and square footage of subject property. Show all easements on the property.
 - e. Location, dimensions and quantity of off-street parking.
 - f. All adjoining public or private streets.
 - g. Existing street improvements (curb, gutter, sidewalk, extent of paving).
 - h. Vicinity map. The map can be small (e.g. 8 ½" x 11") or a detail on the site plan, and it must clearly indicate the following:
 - (1) Location of the subject parcel in relationship to the immediate neighborhood,
 - (2) Access to the subject property.
 - i. A separate enlarged site plan may be required if necessary to show adequate detail of the vending area.
- 4. Legal Description, which describes the metes and bounds of the property, indicating what is owned, and can be found in a title report.
- 5. Property Owner's Permission. By signing the bottom of the application form, the property owner or representative is acknowledging that he or she has granted the applicant permission to conduct on the property such activities as are described in this application.
- 6. Written statement indicating the following:

- a. Dates and hours of operation.
- b. Items for sale.
- 7. Size, location, and number of proposed signs.

Applicant's Signature _____

Date: _____

I acknowledge that I have read the instructions on applying for a variance, and have submitted at least the minimum submittal requirements to the Planning Department Staff. I agree to submit more materials regarding my application, if requested to do so.



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**APPLICATION FOR TEMPORARY LAND USE PERMIT
RESPONSE TO FINDINGS**

Project Description - On a separate sheet, please briefly describe the scope of the project and temporary land use(s) you are requesting. Include the reasons for the request and the reasons why you believe the temporary land use permit can be granted.



TEMPORARY LAND USE PERMIT APPLICATION

PROJECT INFORMATION		
Project Address / Location	Assessor's Parcel Number (APN)	Zoning District

APPLICANT INFORMATION			OWNER INFORMATION		
Applicant Name			Owner Name		
Applicant Address			Owner Address		
City	State	Zip	City	State	Zip
Phone () -	Cell () -		Phone () -	Cell () -	
Email (for official use only)			Email (for official use only)		

REQUIRED FOR APPLICATION SUBMITTAL	
<input type="checkbox"/> Temporary Land Use (TLUP) Application <input type="checkbox"/> TLUP Submittal Requirements Checklist <input type="checkbox"/> Site Plan <input type="checkbox"/> Vicinity Map <input type="checkbox"/> Property Owner Letter of Authorization <input type="checkbox"/> Application Fee <input type="checkbox"/> Agreement for City Services (ACS)	<input type="checkbox"/> Narrative Containing: <ul style="list-style-type: none"> <input type="checkbox"/> Dates and Hours of Operation; <input type="checkbox"/> Items for Sale <input type="checkbox"/> Size, location, and number of proposed signs.

OWNER / AGENT STATEMENT		
<p>Property Owner Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application. I hereby grant permission to access the property to individuals involved in the processing of the subject application(s). I agree to defend, indemnify and hold harmless the City, its agents, officers, officials, and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (collectively "Actions") brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this application. In the event the City becomes aware of any such Actions, the City shall promptly notify me and shall cooperate fully in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and I shall reimburse City for any attorney's fees, costs and expenses, including any plaintiff's or other third party's attorneys' fees, costs and expenses, directly and necessarily incurred by the City in the course of the defense.</p>		
_____ Print Name	_____ Signature	_____ Date

**City of Lafayette
Planning & Building Department**

AGREEMENT TO PAY FOR CITY SERVICES

Complete and submit this form with the development application.

In consideration for the City providing the services described in this Agreement, the undersigned agrees as follows:

1. The City services requested relate to development application number _____, property in the City of Lafayette located at _____, assessor's parcel number _____.
2. This Agreement is for services and fees that are in addition to the planning fees paid upon the filing of the referenced development application. I agree to pay for the additional charges imposed by the City for staff time spent processing the application based upon an hourly rate established by resolution of the City Council. These services include but are not limited to City staff time spent for engineering and other City administrative services regarding the application. In addition, I agree to pay for services of consultants retained by the City and required by it in connection with the development application at the hourly rate charged by each consultant to the City. These services include but are not limited to legal, landscaping, traffic engineering and environmental services.
3. The City will bill for the services performed under this Agreement upon a monthly or other periodic basis. If at any time the balance due exceeds \$500.00, the City may cease processing the application, prepare a recommendation for taking action on the application and present the application to the appropriate hearing body for final action.
4. The development application account will remain open until it is paid in full. Final payment in full is due as follows:
 - a. In the case of a subdivision, upon release of the final improvement bond or when conditions of approval are satisfied, which ever is later in time;
 - b. In the case of all other applications, when the City authorizes Contra Costa County to issue final building inspection clearance or when work for which a permit is issued is completed;
 - c. If an application is denied, upon expiration of the appeal period or upon a final decision on appeal;
 - d. If an application is withdrawn, when all remaining staff work on the application is completed;
 - e. Upon the expiration of 12 consecutive months during which there was no activity on the application.
5. The undersigned is responsible for the payment of the costs and charges involved with the application even though the property or project is sold or assigned to another party. If the undersigned desires to transfer payment responsibility to another, it is the undersigned's responsibility to have this Agreement replaced by a new agreement with the responsible party. Any outstanding balance must be paid before the City will accept a replacement agreement.
6. The undersigned agrees to advise the City in writing of any change to their billing address and represents that (s)he is the party responsible for payment of the costs or any other obligations incurred under this Agreement.
7. The undersigned agrees to defend, indemnify and hold harmless the City, its agents, officers, officials, and employees from all claims, demands, lawsuits, writs of mandamus, and other actions or proceedings (collectively "Actions") brought against the City or its departments, commissions, agents, officers, officials, or employees to challenge, attack seek to modify, set aside, void or annul any City decision made in connection with this application or Agreement. In the event the City becomes aware of any such Actions, the City shall promptly notify the undersigned and shall cooperate fully in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the undersigned shall reimburse City for any attorney's fees, costs and expenses, including any plaintiff's or other third party's attorneys' fees, costs and expenses, directly and necessarily incurred by the City in the course of the defense.

PRINT NAME: _____

TELEPHONE: _____

MAILING ADDRESS: _____

SIGNATURE: _____

CITY, STATE, ZIP: _____

DATE _____

NOTE: THIS DOCUMENT IS NOT TRANSFERABLE • ORIGINAL TO FINANCE • COPY TO APPLICANT • COPY TO APPLICATION FILE

APPLICATION NO. _____

FOR OFFICIAL USE ONLY

ACCOUNT NO. _____