



## CITY of NOVI CITY COUNCIL

**Agenda Item 3**  
**August 27, 2012**

**SUBJECT:** Approval of Zoning Ordinance Text Amendment 18.257 to amend the City of Novi Zoning Ordinance at Article 30, "Administration and Enforcement," Section 3004, "Temporary Special Exception and Temporary Special Land Use Permits," in order to add a timeframe for submitting an application and to provide regulations relating to temporary tents in connection with an outdoor recreation facility. **SECOND READING**

**SUBMITTING DEPARTMENT:** Community Development Department - Planning *CMS*

**CITY MANAGER APPROVAL:** *[Signature]*

**BACKGROUND INFORMATION:**

The City has received recent inquiries regarding the use of and regulations related to the use of temporary tents that are accessory to permitted outdoor recreation uses. In order to address these questions, the Ordinance Review Committee (ORC) examined the existing provisions relating to temporary special exception and temporary special land use permits generally and tents in particular, and suggested a number of modifications.

The Zoning Ordinance currently allows the Building Official to grant permits for temporary special exceptions such as outdoor tent, sidewalk, and flower sales; seasonal sales of produce, firewood, or Christmas trees; pre-manufactured buildings (i.e. construction trailers); and tents erected in conjunction with a special event. The amendment as proposed by the ORC was primarily intended to add a new section specifically creating a new special exception category for temporary tents that are accessory to a principal permitted use for outdoor recreational uses. The amendment is thus completely separate from requirements or limitations for temporary tents used by retail establishments in commercial shopping areas (e.g., tent sales such as seen with furniture stores).

As part of its overall review of the tent regulations, the ORC also proposed additional amendment to the process for receiving **any** special exception for tent uses – that is, for the new category of tents accessory to an outdoor recreational use, but also the other, existing categories – by adding a 5 day advanced review timeframe as the number of days prior to an event an application must be submitted for review and approval by the Community Development Department. (As a comparison, the Outdoor Gathering permit typically requires a 10 day notification to the City and a temporary special exception permit for a sidewalk sale requires a 15 day notification to the City.)

After an initial brief review, the City Council at its June 24, 2012 meeting referred the ORC's suggested amendment to the Planning Commission for review and recommendation. Relevant meeting minutes are attached.

The Planning Commission held the required public hearing and recommended adoption of the amendment on July 11<sup>th</sup>. Relevant meeting minutes are attached.

The ordinance as proposed for first reading would have authorized the tent for outdoor recreational purposes for up to four (4) days. There were questions about whether this timeframe was long enough, whether the tent would have to physically be removed at the end of the 4 days, and whether new inspections would be required for each use within the 4 days. In addition, Mr. Jeff Wainwright, proprietor of Paradise Park (an outdoor recreational facility that would likely utilize the new category of tents), made a number of suggestions.

The revised proposed ordinance attached includes the following revisions to address these issues as well as many comments and suggestions from the Mayor and Councilmembers:

- The maximum duration for a temporary tent to be in place has been extended to (8) days to further accommodate multiple booked events
- If a tent is used for multiple events within the above period, a reduced rate of \$35 for re-inspection of the revised layout/configuration would apply as well as a reduced turnaround for the inspection. The initial inspection fee is \$ 100 based on three steps of the permitting process; receipt and logging of the permit application, review application for ordinance compliance and scheduling/actual inspection of proposed temporary structure. The final step in the process, the inspection, is \$ 35.

Despite the fact that the City has full time staff that processes permits and performs inspections, the use of their time for these inspections has "costs" in terms of both loss of utility and opportunity costs for the individual inspector assigned. Adding an assignment for a Building Inspector to make an additional inspection, for example, necessarily limits that inspector's availability for following up on closing out expired permits, investigating complaints, reviewing project deferred submittals, and meeting with and assisting residents and contractors. More importantly, though, the fact is that this is how these sorts of positions are largely funded; that is, the inspection programs, particularly in the Building Department, are expected to pay for a significant portion of their costs, and thus any added duties that bring with them potentially added employees, or the loss of other fees that would otherwise be collected to defray departmental costs, would then in turn affect the work allocation and budgeting process.

**RECOMMENDED ACTION:** Approval of Zoning Ordinance Text Amendment 18.257 to amend the City of Novi Zoning Ordinance at Article 30, "Administration and Enforcement," Section 3004, "Temporary Special Exception and Temporary Special Land Use Permits," in order to add a timeframe for submitting an application and to provide regulations relating to temporary tents in connection with an outdoor recreation facility. **SECOND READING**

|                               | 1 | 2 | Y | N |
|-------------------------------|---|---|---|---|
| <b>Mayor Gatt</b>             |   |   |   |   |
| <b>Mayor Pro Tem Staudt</b>   |   |   |   |   |
| <b>Council Member Casey</b>   |   |   |   |   |
| <b>Council Member Fischer</b> |   |   |   |   |

|                                | 1 | 2 | Y | N |
|--------------------------------|---|---|---|---|
| <b>Council Member Margolis</b> |   |   |   |   |
| <b>Council Member Mutch</b>    |   |   |   |   |
| <b>Council Member Wrobel</b>   |   |   |   |   |

**CITY OF NOVI**

**OAKLAND COUNTY, MICHIGAN**

**RESOLUTION TO ADOPT A FEE FOR REVISED CONFIGURATION FOR MULTIPLE  
EVENTS FOR A TENT ERECTED UNDER THE TEMPORARY SPECIAL EXCEPTION  
PROVISIONS OF SECTION 3004 OF THE ZONING ORDINANCE FOR OUTDOOR  
RECREATIONAL USES**

WHEREAS, The Novi Community Development Department and Fire Departments are charged with maintaining and assuring the public health, safety and welfare of the community; and

WHEREAS, The Community Development Department and Fire Departments provide review and inspections for temporary tent structures erected under the Temporary Special Exception provisions of Section 3004 of the Zoning Ordinance; and

WHEREAS the fees for acts and services performed by the City in carrying out its duties under State statutes and local Ordinances are set by resolution of City Council of the City of Novi; and

WHEREAS, the City recognizes that in the case of approved Outdoor Recreational Uses it is appropriate the allow multiple events to occur under a permitted tent once erected; and

WHEREAS, once approval and initial inspection for the placement of temporary tent has been provided, a lesser fee is appropriate for the inspection prior to subsequent events of differing configuration; and

WHEREAS, the City Council has reviewed the following fee and determined that the amount provided therein is reasonable fees for the designated purpose.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Novi shall, and hereby does adopt the following fee effective as of August 15, 2012

1. Inspection fee for additional use of revised configuration in a temporary tent erection the Temporary Special Exception provisions of Section 3004 of the Novi Zoning Ordinance \$35.00

**CERTIFICATION**

I, Maryanne Cornelius, duly appointed Clerk of the City of Novi, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at a Regular Meeting held this day, August 13, 2012

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Maryanne Cornelius  
City Clerk

# *Paradise Park*

45799 Grand River  
Novi, Michigan 48374  
[www.paradiseparknovi.com](http://www.paradiseparknovi.com)

August 14, 2002

Mr. Victor Cardenas  
City of Novi  
45175 West 10 Mile Road  
Novi, Michigan 48375

**Ref: Letter of Support**

Dear Victor,

Thanks for calling this week regarding the adjustments to the ordinance regarding tent usage and duration.

The 8 day usage period that you are suggesting will be quite effective for Paradise Park and will address the majority of the needs regarding usage duration for event tents.

We indeed appreciate the pro-active work the administration has taken in this area and the commercial benefits that will be provided by these changes.

Sincerely,

Jeffrey L. Wainwright  
President / CEO  
Paradise Park  
Park Office: 248 735 1050

| <b>Temporary Tent Permits- Neighboring Communities</b> |   |   |                                      |
|--|---|---|--------------------------------------|
| <b>City</b>  | <b>Tent Permit Fee</b>                    | <b>Apply/Submit permit # days before tent is set up</b> | <b>How long can the tent remain?</b> |
| Farmington Hills                                       | \$50                                      | 21 days   | 14 days                              |
| Southfield   | \$143                                     | 3-4 weeks before event                                  | varies with the permit               |
| Auburn Hills   | \$310                                     | 14 days   | 3-4 days                             |
| Rochester Hills  | Application fee- \$75, permit fee- varies | 14 days   | varies with the permit               |
| Birmingham   | \$100                                     | 2 days  | 14 days                              |
| Livonia  | \$95                                      | 3-4 weeks before event                                  | 14 days                              |
| Bloomfield Hills                                       | \$150                                     | 3-4 weeks before event                                  | varies with the event                |
| Royal Oak  | \$200                                     | 14 days   | varies with the event                |
| Grand Rapids   | \$60 (first ) \$40 (second)               | same day (over the counter)                             | -                                    |
| Portage  | \$110                                     | 15 days   | 28 days                              |

PROPOSED ORDINANCE AMENDMENTS  
STRIKE-THROUGH

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18 AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 30, "ADMINISTRATION AND ENFORCEMENT," SECTION 3004, "TEMPORARY SPECIAL EXCEPTION AND TEMPORARY SPECIAL LAND USE PERMITS," IN ORDER TO ADD A TIMEFRAME FOR SUBMITTING AN APPLICATION AND TO PROVIDE REGULATIONS RELATING TO TEMPORARY TENTS IN CONNECTION WITH AN OUTDOOR RECREATION FACILITY

THE CITY OF NOVI ORDAINS:

**Part I.** That Article 30, Administration and Enforcement," Section 3004, "Temporary Special Exception and Temporary Special land Use Permits," is hereby amended as follows:

**Section 3004. Temporary Special Exception and Temporary Special land Use Permits**

1. The Building Official shall have the power to grant permits authorizing temporary special exceptions for:

a. *Outdoor tent, sidewalk, or flower/plant sales, and seasonal sales of produce, firewood, or Christmas trees,* under the following conditions:

(1) *Zoning Districts Where Permitted.*

Temporary special exceptions for outdoor tent, sidewalk, or flower/plant sales that are accessory to a permitted principal retail use of a property, and seasonal sales of produce (i.e., fruits and vegetables), firewood, or Christmas trees, shall be permitted in OSC Office-Service-Commercial Districts, B-1 Local Business Districts, B-2 Community Business Districts, B-3 General Business Districts, I-1 Light Industrial Districts, I-2 General Industrial Districts and P-1 Vehicular Parking Districts. In addition, temporary special exceptions for

seasonal sales of produce or of Christmas trees shall be permitted on parcels of three (3) acres or more in any residential district and temporary special exceptions for outdoor tent sales, sidewalk sales and seasonal sales of Christmas trees shall be permitted in the RC Regional Center District.

(2) *Application; Fee; Submission of Plot Plan.*

Every person, firm, or corporation desiring to obtain a temporary special exception permit as required by this Ordinance shall file a written application with the Department of Community Development on a form approved by the Department, together with an application fee as is hereafter provided by resolution of City Council. An application, together with the required fee, shall be filed by the owner of the land not less than five (5) business days before the proposed event or sale.

The application for a temporary special exception permit shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale, showing the following:

- (i) The shape, location and dimensions of the lot, including the shape size and location of all buildings or other structures already on the lot, off-street parking layout, and the location of any designated fire lanes.
- (ii) The materials to be utilized in and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.
- (iii) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.
- (iv) For temporary tent, sidewalk, or flower/plant sales, an acknowledgement that



outdoor sales shall be operated by and maintained under the same ownership as, or subject to the control of, the property owner and on the parcel as the principal use.

(3) *Time Limitations.*

(i) A temporary special exception permit for an outdoor tent, sidewalk, or flower/plant sale shall be effective for no longer than fifteen (15) days. No more than three (3) such sales shall be permitted in any calendar year. No more than fifteen (15) total days of such sales shall be permitted in any calendar year. A separate permit is required for each separate sale.

(ii) A temporary special exception permit for the sale of Christmas trees shall by its terms be effective for no longer than thirty (30) days. No more than one (1) temporary special exception permit for the sale of Christmas trees shall be issued for any given location within a single calendar year.

(iii) A temporary special exception permit for a vegetable, fruit or produce stand (other than flowers/plants) or for the sale of firewood, shall, by its terms, be effective for no longer than three (3) months. No more than one (1) temporary special exception permit for a vegetable, fruit or produce stand, or for the sale of firewood, shall be issued for any given location within a single calendar year.

(4) *Regulations.*

(i) The proposed temporary special exception shall comply with all applicable zoning regulations for the district in which the temporary special exception is to be located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum

percentage of covered lot area, and off-street parking.

(ii) No temporary special exception shall be permitted if it reduces the parking by greater than twenty-five (25) percent.

(iii) All temporary buildings and structures shall be constructed, used, occupied and maintained so as to be in compliance with the provisions of the State Construction Code and all applicable ordinances of the City of Novi.

(5) *Deposit Required for Temporary Sale of Christmas Trees.* The Building Official or his designee shall require any person, firm, or corporation granted a temporary special exception permit for the sale of Christmas trees or firewood to deposit a sum of money in an amount as set by resolution of City Council with the Department of Community Development to guarantee the cleaning of the lot and any abutting private or public property and the disposal of any remaining trees or firewood by an approved method within one (1) week after the permit expiration date.

b. *Special events.* The temporary erection of a tent or similar temporary structure that is not totally enclosed for a maximum of five (5) days in any six-month period for customarily accessory uses such as promotional events, ground-breakings, grand openings, private parties or other similar gatherings that reasonably may be expected to attract fewer than 100 persons and that are not expected to have significant negative impacts on surrounding properties. An application in accordance with section 3004.1.a(2) shall be filed with the Department of Community Development.

c. *Pre-manufactured buildings.* The temporary location of a temporary or pre-manufactured building in connection with the development of a property or construction of buildings thereon, including in residential developments irrespective of the requirements of Section 302 of this Ordinance, provided:

(1) The use shall be limited to construction offices or trailers and offices for the specific purpose of selling lots or new homes to be erected in a residential development or in connection with the construction of nonresidential building improvements if such separate offices are reasonably necessary.

(2) All applicable building height, bulk and area requirements of the district are met.

(3) If the structure is used for the purpose of selling lots or new homes it shall be removed from the subdivision upon completion of the first permanently built model home intended for display. If the structure is used for construction offices then it shall be removed within the time period provided for in the permit.

(4) An application in accordance with section 3004.1.a(2) shall be filed with the Department of Community Development.

d. *Temporary tents within outdoor recreational use.* Temporary tents within an outdoor recreational use that is a principal permitted use within a zoning district, ~~provided that the tent may be erected for a period not to exceed four (4) consecutive days.~~ A temporary tent installed or erected under this section may be erected for a period of four (4) days,- provided that An application in accordance with section 3004.1.a(2) shall be filed with the Department of Community Development, which such application shall identify and describe all events and activities for which the tent is expected to be used. The time period may be extended for up to four (4) additional days, with the total period not to exceed eight (8) days, provided that

(1) The applicant identifies events or activities to occur within the extended period;

(2) Each individual event configuration or activity held shall require an inspection by the Department of Community Development, and the applicant shall pay a re-inspection fee as established by the City Council. The applicant shall request the re-inspection no later than —two (2) days/48 hours before the event or activity.

(3) The tent shall be removed or uninstalled on or before the expiration permitted use or of the eight (8) day permit whichever comes first.

## **Part II**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

## **PART III.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

## **PART IV.**

**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## **PART V.**

**Effective Date: Publication.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

Made, Passed and Adopted by the Novi City Council this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Robert J. Gatt, Mayor

\_\_\_\_\_  
Maryanne Cornelius, City Clerk

**Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the \_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Maryanne Cornelius, City Clerk

Adopted:  
Published:  
Effective:

**ORDINANCE REVIEW COMMITTEE**  
**May 14, 2012 | 6:30 p.m.**  
**Mayor's Conference Room | Novi Civic Center | 45175 W. Ten Mile Road**

Mayor Gatt called the meeting to order at 6:32 p.m.

**ROLL CALL:** Mayor Gatt, Council Member Margolis, Council Member Mutch

**ALSO PRESENT:** Victor Cardenas, Assistant City Manager  
Charles Boulard, Community Development Director  
Jeff Johnson, Director EMS/Fire Operations  
Thomas Schultz, City Attorney

**APPROVAL OF AGENDA:** Agenda was unanimously approved as presented.

**AUDIENCE COMMENT:** None

**MATTERS FOR DISCUSSION:**

**1. Zoning Ordinance – Temporary Tent Installations**

Mr. Cardenas began the discussion by stating the item was brought forward at the request of Council to evaluate potential changes that could be made to the Zoning Ordinance. He said Attorney Tom Schultz had drafted an amendment for review.

Mr. Schultz said there were two options administration had looked at to address the temporary tents that were being constructed at Paradise Park. The first was to add something directly to the district regulations for I-2 zoning to clarify the temporary tents as an allowed use. The second option was to add a fourth category within Section 3004 relating to temporary tents within outdoor recreational use. The second option was what administration was most comfortable moving forward with. He said the new section allowed a temporary tent to be erected for no longer than three consecutive days at a time. He added that the section would not allow for a tent to be erected for an extended period of time due to the necessity of inspections prior to individual events. Mr. Schultz added that there were other minor changes including changing the name from Department of Building and Safety to Department of Community Development, specifying there was an application to be filed and that the application must be submitted five business days before the event or sale.

Member Mutch asked if the new section had any limit in regards to the number of people who would attend the event. Mr. Schultz said there wasn't. Member Mutch said in the case of Paradise Park, it seemed like they were exhausting the number of temporary special event permits and then utilizing the Outdoor Gathering Ordinance to erect the tent, even if it wasn't necessary to file the Outdoor Gathering Permit. He asked if allowing the tent to be constructed for three consecutive days was enough time. Mr. Boulard said the tents were typically put up on Friday and taken down by Monday, but maybe they should consider allowing four consecutive days to allow for lenience on holiday weekends. He added it was necessary to inspect the tent prior to each event because it was usually a different size tent, different uses, sometimes there was a dance floor and sometimes they wanted to have food under the tent. Member Mutch said he understood why the changes were being brought

forward and liked that it would provide consistency. He said he didn't feel like it would open a door to future problems.

Member Margolis asked what else "outdoor recreational use" could encompass. Mr. Schultz said there weren't many places that would qualify for it. Member Margolis said the Outdoor Gathering Permit was required when there were over 200 people, but what would happen if they had over 1,000 people and had only received the permit for the temporary tent within outdoor recreational use under the Temporary Special Land Use. Mr. Schultz said the Outdoor Gathering Permit was more for specialized events, like an outdoor concert or something. He didn't feel what Paradise Park was doing necessarily qualified for Outdoor Gathering to begin with. Member Margolis asked what the fee was for Temporary Special Land Use Permit. Mr. Boulard said the fee was set by a resolution of City Council and was currently \$100 per application. Member Margolis asked why the Outdoor Gathering required ten days' notice and they were only proposing five days' notice for this. Mr. Boulard said the Outdoor Gathering Permit application review process was more involved because it required a background check through the Police Department and in general was a more specialized type of event. He felt confident five days' notice was adequate. Member Margolis said she was ok with the changes, but was concerned about changing the ordinance for one specific business.

Mayor Gatt summarized they wanted to move forward with the proposed changes, but to allow the tent to be erected for four consecutive days and apply five days in advance. He asked why there was an application fee at all since staff is already on duty. Was there overtime involved or special equipment? Mr. Boulard said the fee covered employee time to review the application and to go out and inspect the tent. Mayor Gatt asked how that was any different than a police officer being sent to the same home 15 times in a month, the City didn't require that citizen to pay extra. Mr. Johnson explained that they went to Paradise Park on nine different occasions last year alone for tent inspections related to an Outdoor Gathering Permit. He said the demand is more than a regular citizen. Mayor Gatt said the salary is the same for an employee whether they are performing inspections or in the office. He said he could justify the application fee if there were added costs such as overtime.

Member Mutch asked if they should add wording to prevent a tent from being permanently erected to avoid the application process and fee. Mr. Schultz explained that the application will have to be filed and the tent will have to be inspected prior to each event since the tent is only allowed to be up for four days.

**Moved by Mutch, Seconded by Margolis: Carried Unanimously**

**To recommend to City Council the proposed Zoning Ordinance Amendment as discussed; allowing temporary tents within outdoor recreational use to be erected for no more than four consecutive days and that the application must be received five days prior to the event.**

The meeting was adjourned at 7:02 p.m.

Recorded by: Cortney Hanson  
Deputy City Clerk