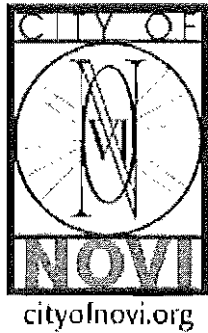


# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, AICP, PLANNER *Kristen*  
**THRU:** BARBARA MCBETH, AICP, COMMUNITY DEVELOPMENT  
DEPUTY DIRECTOR  
**SUBJECT:** TEXT AMENDMENT 18.257 – TEMPORARY SPECIAL  
EXCEPTIONS UPDATE  
**DATE:** JUNE 5, 2012

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The City has received recent inquiries regarding the use of and regulations related to the use of temporary tents at permitted outdoor recreation uses. In order to address these questions, the Ordinance Review Committee examined the existing provisions relating to temporary special exception and temporary special land use permits and suggested the following modifications.

The Zoning Ordinance allows the Building Official to grant permits for temporary special exceptions such as outdoor tent, sidewalk and flower sales and seasonal sales of produce, firewood or Christmas trees as well as pre-manufactured buildings (i.e. construction trailers) and tents erected in conjunction with a special event. The proposed ordinance provides a five day timeframe as the number of days prior to an event an application must be submitted for review and approval by the Community Development Department. The proposed amendment also includes the creation of a section specifically addressing the use of temporary tents as part of an approved outdoor recreation use. These new provisions state that temporary tents used in conjunction with an outdoor recreational use may only be erected for up to four days and require the review and approval of the Community Development Department.

The City Council referred the suggested amendment to the Planning Commission for review and recommendation at the City Council meeting held on June 4, 2012. Relevant meeting minutes are attached.

The Planning Commission is asked to set a Public Hearing for July 11<sup>th</sup> on the proposed ordinance amendment. At that time, the Commission will hold the public hearing and forward a recommendation to the City Council, for reading and adoption.

If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org).

**PROPOSED ORDINANCE AMENDMENTS  
STRIKE-THROUGH**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 18.257

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 Building and Safety 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 Building and Safety 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. An application in accordance with

section 3004.1.a(2) shall be filed with the Department of Community Development.

## **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.

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Robert J. Gatt, Mayor

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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.

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Maryanne Cornelius, City Clerk

Adopted:  
Published:  
Effective:



**CITY COUNCIL RESOLUTION  
JUNE 4, 2012**

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION REFERRING PROPOSED ORDINANCE AMENDMENT RELATING TO TEMPORARY TENTS TO PLANNING COMMISSION**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on June 4, 2012, at 7:00 o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers: Gatt, Staudt, Casey, Fischer, Margolis, Mutch, Wrobel

ABSENT: Councilmembers: None

The following preamble and Resolution were offered by Councilmember Fischer and supported by Councilmember Mutch.

**WHEREAS**, at the April 23, 2012 Council meeting a discussion took place concerning the requirements under the City's Code of ordinances relating to temporary tents, and more specifically the difference between the temporary special event provisions of the Zoning Ordinance (which allow tents for up to five days in a six-month period, for events with less than 100 people) and outdoor gatherings, which also allow temporary tents but which are regulated under the City Code provision for gatherings of more than 200 people; and

**WHEREAS**, it was acknowledged that neither existing ordinance provision addresses the situation of a temporary tent that is regularly placed in connection with an outdoor recreation use, such as the use permitted in the Light Industrial district of the City's zoning ordinance; and

**WHEREAS**, the issue was referred to the Council's Ordinance Review Committee (ORC) for consideration; and

**WHEREAS**, on May 11, 2012, the ORC met to consider a draft proposed ordinance to address the matter; and

**WHEREAS**, the ORC has recommended adoption of the attached revisions to Article 30, Section 3004, of the zoning ordinance, relating to temporary land uses, which generally add provisions dealing specifically with outdoor recreation uses as principal permitted uses to allow temporary tents to be approved by the Building Official under certain conditions, and make certain other clarifying changes to the Section; and

**WHEREAS**, the City Council finds that it would be appropriate to refer the matter to the Planning commission for its recommendation regarding the proposed amendment.

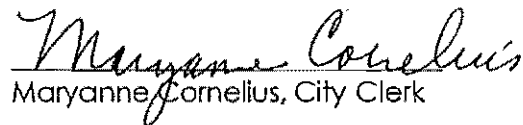
**NOW THEREFORE, IT IS THEREFORE RESOLVED AS FOLLOWS:**

The attached proposed amendment to the City's zoning ordinance, Article 30, Section 3004, relating to temporary land uses, is hereby referred to the Planning Commission for its review and recommendation, following the appropriate public hearing(s), such recommendation to be provided to the City Council within 60 days of the date hereof.

**AYES:** Gatt, Staudt, Casey, Fischer, Margolls, Mutch, Wrobel (7)

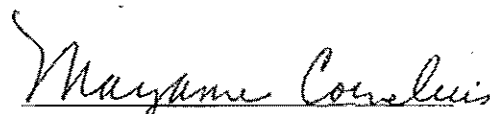
**NAYS:** None (0)

RESOLUTION DECLARED ADOPTED.

  
Maryanne Cornelius, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 4<sup>th</sup> day of June, 2012, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

  
Maryanne Cornelius, City Clerk  
City of Novi

**CITY COUNCIL MEETING MINUTES  
JUNE 4, 2012 – EXCERPT**

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY, JUNE 4, 2012 AT 7:00 P.M.  
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

**Mayor Gatt called the meeting to order at 7:00 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Fischer, Margolis, Mutch, Wrobel

**ALSO PRESENT:** Clay Pearson, City Manager  
Victor Cardenas, Assistant City Manager  
Tom Schultz, City Attorney

**APPROVAL OF AGENDA**

**CM-12-06-081 Moved by Fischer, seconded by Margolis; CARRIED UNANIMOUSLY:**

**To approve the Agenda as presented.**


**Roll call vote on CM-12-06-081**                      **Yeas: Staudt, Casey, Fischer, Margolis,  
Mutch, Wrobel, Gatt**  
**Nays: None**

**CONSENT AGENDA REMOVALS AND APPROVALS (See items A-L)**

**CM-12-06-082 Moved by Fischer, seconded by Mutch; CARRIED UNANIMOUSLY:**

**To approve the Consent Agenda as presented.**

- A. Approve Minutes of:
  - 1. May 21, 2012 – Regular meeting
  
- B. Approval to award a one-year contract extension (the second of two potential extensions) for towing services to Hadley's Towing and Keford Towing to function on a rotating basis with an effective date of July 1, 2012.
  
- C. Approval of Proposed Water & Sewer Rate Resolutions for 2012-13.
  
- D. Approval to award an amendment to the engineering services agreement with Orchard, Hiltz & McCliment, Inc. for construction engineering services related to the 2012 Neighborhood Road Program, in the amount of \$93,037.
  
- E. Approval to award an amendment to the engineering services agreement with Orchard, Hiltz & McCliment, Inc. for construction engineering services related to the 2012 Regional Storm Water System Improvements project, in the amount of \$32,048.

- F. Approval of the final payment to C & L Enterprizes, Inc. for the 2010 Pathway Gap project, in the amount of \$9,340.19.
- G. Consideration of adoption of Ordinance No. 12-81.25 to amend the City of Novi Code of Ordinances at Chapter 33, Traffic and Motor Vehicles, to allow prosecution of cases under Section 625 (1) (C) of the Motor Vehicle Code with enhanced penalties for high bodily alcohol level (BAC). **Second Reading**
-  H. Adoption of resolution referring a proposed Zoning Ordinance Amendment relating temporary tents erected in connection with a permitted outdoor recreation use, under Section 3004, to the Planning Commission for its review and following a public hearing, if recommendation to City Council.
- I. Approval of the final payment and balancing change order to Tiseo Brothers, Inc. for the Crescent Boulevard Extension Phase 1 project, in the amount of \$26,253.90.
- J. Approval to award an amendment to the engineering services agreement to URS Corporation for additional construction inspection services related to the Crescent Boulevard Extension Phase 1 project in the amount of \$21,832.50 (which is offset by the charges to the construction contractor for exceeding the number of crew days that were in the construction contract.)
- K. Approval of Resolution for Fees for Returned Deposit items.
- L. Approval of Claims and Warrants – Warrant No. 869

**Roll call vote on CM-12-06-082**

**Yeas: Casey, Fischer, Margolis, Mutch  
Wrobel, Gatt, Staudt**  
**Nays: None**

**ORDINANCE REVIEW COMMITTEE MEETING MINUTES  
MAY 14, 2012 – EXCERPT**

**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