

Section 972.08. - Specific uses, standards and requirements.

- (1) Model homes shall be an authorized temporary use and may be used as such, provided the following requirements are met:
  - (a) Temporary permits for model homes may be issued for a period not to exceed one (1) year. The community development director may renew said permit upon application, provided that the model home has been constructed and operated in accordance with the standards herein and conditions of the original permit.
  - (b) All parking shall be provided off-street and a minimum of five (5) parking spaces shall be provided. Spaces must meet the size requirements of spaces as specified in Chapter 954, must be demarcated on-site, and must be paved or fully sodded or otherwise stabilized.
  - (c) The permit holder may not use the model home as his or her principal place of business. The model home shall be used for display purposes only, and not as a contractor's office, real estate office, or annex thereof; however, price quotations may be given and binders may be executed on the premises.
  - (d) Business activity may be conducted at the model home only between the hours of 8:00 a.m. and 7:00 p.m., seven (7) days per week; and not more than two (2) permanent employees (in addition to the owner thereof) shall be authorized to remain in the model during the business day.
  - (e) The model home lot shall meet all district requirements for lot and yard dimensions, open space standards and all other applicable county regulations.
  - (f) All signs shall conform with Chapter 956 regulations; however, on-premises model home signs shall not be illuminated.
  - (g) Model homes may be illuminated, but such illumination shall not cause a glare that infringes on neighboring properties or traffic using adjacent roadways.
  - (h) At the time of application submittal, the applicant shall verify in writing that the proposed model home use is not prohibited by recorded private deed restrictions. In addition, the applicant shall provide contact information for any property owners association established for the subdivision in which the model home is proposed.
  - (i) A temporary use permit may be issued for use of an "early" model home or homes (e.g. open to customers), prior to issuance of a certificate of completion, subject to the following criteria:
    1. Prior to issuance of the temporary use permit, the following improvements shall be installed, inspected, and approved for temporary use by appropriate County staff:
      - a. The road(s) abutting and providing access to the "early" model home lot(s)/site(s) shall have stabilized subgrade and road base material installed at the design thicknesses, and the base material shall be rough graded for access purposes. The access road(s)

shall meet the requirements of Section 952.17.

- b. All stormwater inlets/structures must be connected to the retention/detention pond(s) to provide a functioning stormwater system for the model(s) and the road(s) serving the model(s).
- c. Water for firefighting must be available per the requirements of Section 913.09(16), and must be approved by the county fire marshal or his designee and the director of utility services or his designee.

2. Prior to the issuance of a certificate of occupancy, the "early" model home(s) must be connected to the county sewer system (when available) or an approved individual onsite treatment and disposal system.
3. If the applicant is applying for a "early" model home temporary use permit before the subdivision final plat has been approved and recorded, then the temporary use permit application shall include a metes and bounds survey and reference the proposed legal description (e.g. lot number) for the "early" model home lot/site.
4. The total number of "early" model homes allowed within a single-phase subdivision shall be at least two (2) units, and a maximum of five (5) percent of the total number of units in the overall subdivision. The total number of "early" model homes allowed within a multi-phase subdivision shall be at least two (2) units within the applicable phase, and a maximum of five (5) percent of the total number of units within the applicable subdivision phase.
5. The building division may issue a temporary certificate of occupancy for "early" model homes for the sole purpose of public inspection and display (open to customers). A final certificate of occupancy for residential occupancy may be issued after a certificate of completion has been issued by the public works department for the subdivision or applicable subdivision phase.

(2) Temporary construction trailers, temporary construction storage facilities, and watchmen's quarters which are used temporarily in connection with construction activities may be permitted to locate in any zoning district under a temporary use permit issued by the community development director if the following requirements are met.

(a) Temporary use permits for construction trailers and temporary construction storage facilities may be issued for temporary trailers for a period of up to one (1) year. Upon showing of good cause, such permits may be renewed annually by the community development director. In no case shall a permit be renewed for a period of time which extends beyond the termination date of an active building permit for the project.

(b)

Temporary use permits for construction trailers and temporary construction storage facilities may be issued for "construction compound areas" which may contain several trailers and facilities for a construction project.

- (c) Construction trailers may be allowed in conjunction with construction of subdivision improvements, in conjunction with the construction of model and display homes, and in conjunction with the construction of large individual homes as provided in subsection (d)(2), below.
- (d) No watchman's quarters trailers, and no construction storage facility or construction trailers exceeding one hundred (100) square feet in area may be allowed in the RFD, RS-1, RS-2, RS-3, RS-6, or RT-6 zoning districts or within a single-family subdivision development, with the following exceptions:
  - (1) Construction trailers allowed in subsection 972.08(2) for site plan, planned development, and subdivision projects. No size limitation applies to such trailers.
  - (2) Construction trailers of up to three hundred (300) square feet in area for a single family residence having a floor area of more than six thousand (6,000) square feet.
- (e) Watchman's quarters trailers or recreational vehicles may only be allowed in the A-1 zoning district upon issuance of a building permit for construction of a residence on-site. No such watchman's quarters trailer permit shall be allowed for a period of more than one (1) year; no extensions can be granted.
- (f) All such uses shall be located within the lot or subdivision involved in the construction project and shall be set back a minimum of twenty-five (25) feet from any perimeter property line, unless otherwise approved by the community development director.
- (g) All construction areas and all access roads thereto shall be maintained so as to prevent dust or debris from blowing or spreading onto adjoining properties or onto any public right-of-way. Such areas shall be maintained in a clean and orderly manner, and building material and construction residue and debris shall not be permitted to accumulate.
- (h) All buildings, materials, supplies, and debris shall be completely removed from such areas within thirty (30) days from the date of completion of the last building to be constructed or within thirty (30) days from the date active construction is discontinued, whichever occurs first. In no event shall the time exceed the maximum permit period set forth herein.
- (i) Where deemed necessary by the community development director or his designee, when such construction areas are to be located in or adjacent to a residential district, appropriate screening or fencing measures may be required.

(3) Temporary real estate sales offices, for the purpose of marketing for sale ten (10) or more lots or units which are contiguous, are allowed within authorized zoning districts subject to the following conditions and restrictions:

- (a) If a mobile home or trailer is used as the sales office, it shall not exceed eight hundred (800) square feet of gross floor area, and may not be used for such purpose for more than twelve (12) months from the date of issuance of the temporary use permit, and thereafter shall be removed or shall be used in accordance with all regulations of the district in which it is located. The temporary permit may be extended one (1) time for a period not to exceed three (3) months. Sales offices located on the premises after the expiration of the permit must be located in a permanent structure.
- (b) If the sales office is located in a modular or permanent building that meets applicable building code standards, a temporary use permit may be issued for a period of up to one (1) year, and may be renewed annually upon re-application.
- (c) The sales office shall not be used to promote or market for sale any lot or unit which is not part of the common, contiguous project being marketed by the same developer and agent.
- (d) Neither the sales office nor signs shall be illuminated, other than for security purposes, or used for any business activity, after 9:00 p.m., except as may be allowed when located in a nonresidential zoning district.
- (e) All temporary real estate sales offices shall provide parking as required for model homes in subsection 972.08(1)(B), and shall have water and wastewater treatment provisions approved by the environmental health and utility services department for the lot or site upon which the temporary office will be located. For temporary offices associated with multifamily or non-residential projects, all applicable landscaping requirements of Chapter 926 shall be satisfied.
- (f) The sketch accompanying the temporary use permit application shall identify the driveway access to the lot or site, parking areas (spaces, dimensions, method of stabilization), water and wastewater services, landscaping improvements (if applicable), and building setbacks and dimensions (or building envelope).
- (g) At the time of application submittal, the applicant shall verify in writing that the proposed real estate sales office use is not prohibited by recorded private deed restrictions. In addition, the applicant shall provide contact information for any property owners association established for the subdivision in which the real estate sales office is proposed.

(4) The purpose and intent of allowing certain types of transient merchant operations is to allow roadside sale of products historically indigenous to Indian River County (eg. Fruits, vegetables, and seafood) or products historically available to celebrate holidays (Christmas trees for Christmas). Transient merchant operations may be allowed if the following requirements and standards are met.

- (a) All transient merchant temporary use permits shall clearly define an expiration date. No permit shall be transferable, and no permit shall be good for a period of more than one (1) year for a Class A merchant, six (6) months for a Class C merchant, and no more than forty-

five (45) days during any calendar year for a Class B merchant, as defined below. Renewal of a permit shall require reapplication.

- (1) Transient merchant classifications. All approvable transient merchant uses shall be limited to one (1) of the following categories:

*Class A:* Fruit and vegetable sales. Fruit and vegetable sales are allowed if items for sale consist of only fresh fruits or fresh vegetables in either their natural state or prepackaged individual containers when approved by the county public health authority.

*Class B:* Seasonal sales such as Christmas trees and other similar uses; use in operation no more than forty-five (45) days during any calendar year on any given site.

*Class C:* Satellite seafood sales operations that:

Are associated with, owned and operated by a legally established permanent retail seafood sales operation located in Indian River County; and

Are operated from a vehicle that is state approved and licensed for seafood sales, whereby said vehicle is self-contained in regards to power, refrigeration, running water, and wastewater holding; and said vehicle has enclosed or screen-enclosed seafood display area; and

Are located on property zoned commercial or industrial; and

Are operated only during daylight hours, and are removed from the site during night-time hours; and

Are approved and inspected by the county public health authority.

A use that does not fall within either [any] of these categories shall not be considered an allowable transient merchant use.

- (2) Class A and Class C permits may be renewed every year upon written request by the applicant.

- (b) The following types of sales operations, for purposes of zoning regulations, shall not be considered transient merchants:

- (1) Curbside mobile ice cream sales involving frequent, intermittent stops;

- (2) Merchandise deliveries;

- (3) Mobile prepared food services catering to employees at employment sites or patrons at permitted or otherwise legal special events.

- (c)

No permanent structures may be utilized; only temporary pavilions may be utilized for transient merchant operations. All facilities used shall be self-contained and mobile or portable. No mobile homes or trailers that exceed two hundred (200) square feet in area may be utilized by Class A merchants [see subsection 972.08(4)(A) for details on Class A, Class B, and Class C merchants]. Trailers may be used by Class B merchants. Class C merchants may only be operated from vehicles approved and licensed by the state for seafood sales. Class A and Class B merchants are further specified in subsection 972.08(3)(A)1.

- (d) No utilities connections (such as electrical, telephone, plumbing or septic tanks) shall be permitted with the following exceptions:
  - (1) Class B transient merchants as defined herein may obtain temporary electrical power for sales operations; and
  - (2) Class A transient merchants as defined herein that were in existence and permitted on May 22, 2001, may obtain electrical power for fruit and vegetable refrigeration only, subject to obtaining applicable building permits.
- (e) Any and all signs to be utilized on-site must conform to county sign regulations and shall be deemed to be temporary and not a structure, and must be removed upon expiration of the temporary use permit or upon vacation of the site. A sign permit, if required, must be obtained prior to issuance of a transient merchant temporary use permit.
- (f) Driveways shall access the lowest classification road available to the site; however, existing driveway cuts may be used regardless of the classification of the roadway accessed.
- (g) All driveways utilized shall be either existing improved and permitted driveways or new driveways meeting the criteria specified herein. New driveways (roads cuts) may be permitted by the county traffic engineer:
  - (1) If traffic maneuverability and safety can be adequately handled by the new driveway location and design; and
  - (2) If a state department of transportation driveway permit or county right-of-way permit, whichever is applicable, is issued for the driveway.
- (h) During all sales hours, a minimum of four (4) temporary standard-sized parking spaces for Class A and Class C merchants, and a minimum of five (5) standard-sized parking spaces for Class B merchants, shall be provided on-site with all parking spaces and driveways clearly demarcated on-site with wheelstops.
- (i) No Class A transient merchant operation, as defined herein, shall be located within three thousand (3,000) lineal feet of another permitted "Class A" transient merchant operation. No Class C transient merchant operation, as defined herein, shall be located within three thousand (3,000) lineal feet of another permitted "Class C" transient merchant operation.
- (j) Any application shall include a sketch showing:
  - (1)

Site dimensions;

- (2) All required setback lines;
- (3) Location and dimensions of all temporary pavilions, driveways, entrances and exits, parking spaces and wheel stops;
- (4) Adjacent roads and road rights-of-way and easements;
- (5) Location and dimensions of all signs to be used.
- (6) For Class C merchants, copies of all required state and county licenses for the seafood sales operation.

(k) Within thirty (30) days of temporary use permit expiration, all items related to the transient merchant operation shall be removed from the site and adjacent county right-of-way shall be restored, as may be required by the county engineering division. Prior to the issuance of any temporary use permit, a cash bond in the amount of two hundred dollars (\$200.00) shall be submitted to the county to guarantee site clean-up. This cash bond amount may be increased to an amount of five hundred dollars (\$500.00) if temporary alterations to county right-of-way (eg. temporary driveway culverts and backfill) are required. If, after thirty (30) days of permit expiration or abandonment of the site, the site or adjacent county rights-of-way have not been properly cleaned and restored by the applicant, the county may use the entire amount of submitted funds to pay for disposing of all transient merchant-related items remaining on a site or restoring adjacent county rights-of-way. Upon vacating and cleaning-up a site, an applicant may request in writing to the planning division for return of the submitted funds. Permit applicants will receive the submitted cash bond amount if:

- (1) The county has not used the funds under the conditions described above; and
- (2) The site is inspected by the county, and it is verified that the site has been cleaned-up and all transient-merchant-related items have been removed. In cases where the county has used the cash bond for site clean-up or restoration of adjacent county right-of-way, no subsequent transient merchant temporary use permit shall be issued to the same applicant whose vacated operation caused the cash bond default and resulting clean-up by the county.

(l) No transient merchants shall operate within any public rights-of-way. No operations within easements shall be permitted unless specifically allowed by all parties having an interest in such easement.

(m) Fees for required reviews and inspections performed by the county public health authority in administering provision of this chapter shall be established as approved by the board of county commissioners.

(5) Special vehicle and boat sales events on-sites not approved for permanent vehicle and boat sales may be approved if the following requirements and standards are met:

- (a) Said events shall be conducted on property having commercial or industrial zoning with written authorization from the property owner provided; or on property approved for special public events, such as the fairgrounds site;
- (b) Said events shall be conducted on property having existing, permanent, and permitted driveways and access points. No new driveways (road cuts) are permitted in conjunction with sales events;
- (c) The event shall have a duration of four (4) or fewer consecutive days and shall be conducted by one (1) or more dealers having a valid Indian River County local business tax receipt, prior to conducting sales associated with the event;
- (d) Said events shall be conducted on property having adequate area for vehicle display and employee and customer parking. Vehicle display areas may be unpaved; employee and customer parking areas must be paved. Vehicles offered for sale must be displayed only in areas identified as display areas on the scaled drawing submitted as part of the temporary use permit application. Employee and customer parking must be provided at a rate of one (1) space per one thousand (1,000) square feet of vehicle display area;
- (e) Said events may be conducted on-sites approved for other uses (such as banks, shopping centers) provided that the following conditions are met:
  - (1) No parking spaces designated as required on the approved site plan for the host site may be used as display area or customer/employee parking for the special vehicle sales event unless the following criteria are satisfied:
    - (a) The applicant provides a written, certified statement from the owner or agent for the host use that sufficient square footage of approved floor area is unoccupied to provide parking or display area for the special vehicle sales event; or
    - (b) The applicant provides a written, certified statement from the owner or agent for the host use stating that the host use will be closed for the entire duration of the special vehicle sales event, including vehicle display times. However, where host uses such as banks participate in the sales event, that activity will not constitute operation by the host use, provided that the host use is not open to the general public for business unrelated to the special sales event.
- (f) No extension of a temporary use permit for special vehicle sales events may be granted.
- (g) Any and all signs to be used in conjunction with the event must conform to county sign regulations. A county sign permit(s), if required, must be obtained prior to issuance of a temporary use permit for a sales event.
- (h) Sanitary facilities shall be provided in accordance with applicable environmental health regulations. Prior to issuance of a temporary use permit for a sales event, the applicant must obtain written approval from the environmental health department for proposed sanitary

facilities.

- (i) Prior to conducting a sales event that includes a tent, the applicant shall obtain a satisfactory inspection by the fire department.
- (j) Concessions are only permitted as an accessory use to the sales event. If concessions are proposed, the applicant must obtain written approval from the environmental health department for the proposed concession facilities, prior to the issuance of a temporary use permit for the sales event.
- (k) Special vehicle sales event applications must meet all submittal requirements for a temporary use permit application. In addition, special vehicle sales event applications must include the following:
  - (1) A scaled drawing showing:
    - a. The dimensions of the property parcel upon which the event is to be held;
    - b. The dimensions of the sales event area;
    - c. Location and dimension of all display areas, parking areas, and driving aisles to be utilized;
    - d. All adjacent roadways and driveways of the property parcel site;
    - e. All signs to be used in conjunction with the sales event and the size and type of sign(s) used;
    - f. Existing zoning of the subject property and applicable setbacks.
    - g. Location, dimension, and setbacks of any proposed facilities including tables, tents, stages, and port-a-lets.
  - (2) Information identifying:
    - a. Beginning and ending dates of the event;
    - b. Hours of operation of the event;
    - c. Approximate number of vehicles displayed at any one (1) time on the event site;
    - d. Any temporary facilities, including sanitary, display (such as tents), and concessions;
    - e. How parking and traffic flow will be properly directed onto and within the event site;
    - f. If existing parking spaces of a permanent use (such as shopping plaza) are to be utilized by patrons and employees of a sales event, calculations shall be submitted demonstrating that the sales event will not utilize any parking spaces necessary, in accordance with the parking standards specified in the zoning code, to service existing uses.
  - (l) The community development director shall issue no more than twelve (12) permits for special vehicle and boat sales annually, from January 1—December 31. No more than six (6) of those permits shall be issued to businesses that reside and operate in Indian River County. No more

than six (6) permits shall be issued to businesses that do not reside and operate within Indian River County. All permits issued for special vehicle and boat sales shall be on a first come, first served basis.

- (1) After six (6) permits have been issued to businesses that reside and operate in Indian River County the community development director shall refuse to accept applications for special vehicle and boat sales from businesses that reside and operate in Indian River County. After six (6) permits have been issued to businesses that do not reside and operate in Indian River County, the community development director shall refuse to accept applications for special vehicle and boat sales from businesses that reside and operate in Indian River County.
- (6) Gifford Farmers Market. As called for in the adopted Gifford Neighborhood Plan, temporary use permits may be approved by the community development director for a weekend and special event "farmers market" site within Gifford (as defined in the Gifford Neighborhood Plan), subject to the special criteria below. To encourage farmers market events, the board of county commissioners waives any temporary use permit application fee for a farmers market in Gifford. To encourage community participation and to create a more viable market place for vendors and the public, applicants are encouraged to obtain the support of one (1) or more Gifford community not-for-profit groups, and no more than one (1) farmers market site shall be permitted on a commercial/industrial site at any given time.
  - (a) Location. The farmers market site shall be limited to properties zoned commercial or industrial, and public park sites. The farmers market site shall:
    - (1) Be located east of 58<sup>th</sup> Avenue, west of US 1, north of the City of Vero Beach corporate limits, and south of 49<sup>th</sup> Street.
    - (2) Have direct access to a collector or arterial road designated on the thoroughfare plan. Such roads include but are not limited to 43<sup>rd</sup> Avenue, 49<sup>th</sup> Street, 45<sup>th</sup> Street/MLK Blvd., 41<sup>st</sup> Street, US 1, and Old Dixie Highway.
    - (3) Be designed to accommodate multiple vendors.
    - (4) Be open to the public.
  - (b) No more than one (1) farmers market site shall be permitted on a commercial/industrial site at any given time.
  - (c) Merchandise. Items for sale shall be limited to fruits, vegetables, food (prepared and unprepared), non-alcoholic beverages, and plants.
  - (d) Days and hours. Special events and re-occurring (regular) market sales activity shall be limited to three (3) days per week, eight (8) hours per day, and shall be conducted during daylight hours only.
    - (1)

Sales activity shall not occur between 8:00 p.m. and 8:00 a.m. Set-up and take-down activity shall not occur between 9:00 p.m. and 7:00 a.m.

- (2) Regular, re-occurring market events may be approved as specified in a temporary use permit (TUP) approval letter. A TUP application may be renewed upon re-application and a finding of compliance with TUP regulations and any condition(s) attached to the previous TUP approval.
- (d) Traffic control, parking and security. Adequate traffic circulation, traffic control, vendor and customer parking, pedestrian access, lighting, and security measures shall be provided as required by planning, traffic engineering, and the sheriff's office.
- (e) Sanitary facilities and solid waste (including recycling). Sanitary facilities and management of solid waste shall be provided as required by the health department and solid waste.
- (f) Vendors. Subject to building, fire prevention, and health department approval, vendor set-ups may include food trucks, tables, canopies, tents and similar structures, as shown on an approved temporary use permit (TUP) site plan sketch.
- (1) Prior to any sales activity conducted by an individual vendor at a market or special event, the individual vendor shall:
  - a. Obtain written authorization (includes email) from the market applicant/sponsor for a vending spot and shall provide documentation of authorization upon request.
  - b. Obtain any license or approval required by the health department, and shall provide documentation of compliance with any such requirement upon request.
- (g) Applicant. The farmers market applicant shall provide authorization from the site owner and shall ensure timely site clean-up after each weekly event.
  - (1) An applicant may include a letter of support from a Gifford community not-for-profit group.
  - (2) Sites shall be cleaned-up within forty-eight (48) hours of each weekly event. To incentivize prompt site clean-up, the applicant shall post a refundable twenty-five dollars (\$25.00) clean-up deposit with the county.
  - (3) The applicant shall provide the name and contact information for the person(s) responsible for managing the market or special event and shall notify the community development department of any change in the manager or contact information.
  - (4) The community development director may terminate a farmers market temporary use permit based upon a determination that the market fails to sustain adequate activity with respect to one (1) or more of the following: lack of multiple vendors, insufficient hours open to the public, lack of frequent or consistent hours open to the public.

(h)

Signs. Prior to commencement of sales activity, all signs associated with a market or special event, including temporary signs, shall be properly permitted. Banners, balloons, pennants, common flags, and inflatable displays shall be prohibited.

- (i) General criteria. The general temporary use permit (TUP) criteria of section 972.06 shall apply. Those criteria address nuisances, hazardous features, traffic and parking, public facilities and services including temporary services, natural environment, site suitability, duration, and protection of the public health.
- (j) Application. Each temporary use permit application for a market or special event shall include a scaled site plan sketch depicting entrances, exits, driveways, traffic circulation, vendor setup areas, customer and vendor parking, signs, sanitary facilities, solid waste management items, sound system items (if any), and lighting/security items.
  - (1) Each application shall be reviewed by planning, traffic engineering, fire prevention, building, solid waste, the sheriff's office, and the health department.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 92-39, § 36, 9-29-92; Ord. No. 95-10, § 2, 5-31-95; Ord. No. 96-6, § 13, 2-27-96; Ord. No. 2001-013, § 1, 5-22-01; Ord. No. 2004-021, § IV, 7-6-04; Ord. No. 2007-029, § 1, 10-2-07; Ord. No. 2012-022, § 1, 7-10-12; Ord. No. 2016-009, § 1, 9-20-16; Ord. No. 2018-021, § 1, 9-18-18)