



Federal Emergency Management Agency

Region VII

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FEMA - REGION VII

NATIONAL FLOOD INSURANCE PROGRAM

REGIONAL GUIDANCE ON TEMPORARY STRUCTURES

In lieu of National Flood Insurance Program (NFIP) guidelines addressing the use of temporary structures within the regulatory floodway, Region VII Community Mitigation Program staff has developed this guidance to assist local communities in the management of special flood hazard areas.

While regulation of temporary structure use is usually a community concern, local floodplain managers have requested Regional assistance in addressing the use of temporary structures with the special flood hazard areas. Regional staff has consistently counseled communities to avoid the use of temporary structures within the floodway. Only land uses having a very low flood-damage potential and presenting no obstruction to flood flows are acceptable in the floodway. Where permitted floodway uses require functionally-dependent structures, Region recommends all structures conform to the NFIP regulations, even temporary ones.

When the use of temporary structures simply cannot be avoided, there are important safeguards that must be built in to assure the free-flow capacity of the regulatory floodway.

The community must be assured of the ability of the property owner to comply with the NFIP requirements in executing full removal of the temporary structures from the regulatory floodway in the event of an actual emergency flooding condition.

The intent of this guidance is solely to assist communities in preserving the unobstructed status of the floodway. Any deviation from this position by the community seriously jeopardizes its participating status in the NFIP.

COMMUNITY ADMINISTRATION:
PLACEMENT OF TEMPORARY STRUCTURES IN THE FLOODWAY

To best ensure uniform standards and review for any placement of temporary structures within the floodway, it is recommended that the community adopt by ordinance a standard procedure governing the use of temporary structures. The best way to do this is to establish a special use permit system. The following is **one** way a community could write its ordinance and administer its special use permit system. Each community will want to review these recommendations and adapt them to their specific situation.

MODEL ORDINANCE LANGUAGE

Definition

Temporary Structure: A temporary structure is a structure permitted in a district for a period not to exceed 180 days and is required to be removed at the expiration of the permit period.

- 1) The placement of any temporary structure within the regulatory floodway as shown on the adopted Federal Emergency Management Agency/National Flood Insurance Program map shall require an approved special use permit.
- 2) Applications for special use permits for temporary structures in the regulatory floodway shall conform to the standard public hearing process prior to community action on the permit request.
- 3) A plan for the moving of the temporary facilities that includes a time frame from a responsible agency or firm which shall provide for the man power, equipment and the relocation and disconnection of all utilities shall be provided as part of the special use permit application for the placement of temporary structures.
- 4) During the first ninety (90) days of the special use permit period, the applicant shall demonstrate that the temporary structure can be moved from the temporary site to a permanent, all-weather access point or route. All utilities, including water, sewer, communications, and electrical shall be disconnected. The community shall be advised of the intent to move the temporary structures seven (7) working days in advance of the move date and must be present to oversee the actual move.

COMMUNITY ADMINISTRATION: Temporary Structures

- 5) A building permit application must be submitted and approved prior to the expiration date of the special use permit for the temporary structures.
- 6) To ensure the mobility of the structure, all temporary structures shall include wheels, licenses and towing appurtenance which shall remain on the structure at all times.
- 7) Under emergency conditions, temporary structures shall be removed immediately or as directed by the City's emergency management officer.
- 8) Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, the same shall be subject to revocation by resolution of the governing body of the community after public hearing, issuance of notice to the landowner and occupant of the land, and by notice to the general public.
- 9) Any deviation from the approved site plan shall be deemed a violation of special use permit approval and the uses allowed shall automatically be revoked. The subsequent land use shall be as in force and effect prior to special permit approval. In such event, all special uses permitted deemed a violation of this ordinance shall be illegal, non-conforming uses and shall be summarily removed and abated.

COMMUNITY ASSISTANCE

ADMINISTRATIVE GUIDELINES: TEMPORARY STRUCTURES

A Temporary Structure is strictly permitted only by special use permit issued by the governing body of the community. Any application for a special use permit to allow a temporary structures will reviewed for compliance with all existing ordinances and codes, including the special use permit regulations. As a minimum, consideration of any temporary structure application will include a review and recommendation by the community's advisory commission or review official. The governing body of the community shall have the discretion to approve or disapprove the special use permit. It shall be valid only for the location described in the application and subsequent permit.

An application for a temporary structure must be accompanied by an accurate site development plan and shall include a statement in writing by the applicant with adequate evidence showing that the proposed special use will conform to the standards conditioned in the special use permit.

During the period that the temporary structure is permitted, it is required that the property owner demonstrate through an exercise, a full removal of all of the temporary structure and attendant facilities (light standards, fences, etc.) from the site. No consideration can be given to the expense of performing the relocation nor the loss of any revenue due to down-time for the establishment.

ADDITIONAL COMMUNITY CONSIDERATIONS

The community may want to consider including the following additional criteria in its administration of temporary structures through issuance of special use permits.

- ! **Site development plans:** Include the location of all temporary structures; all utilities and any change of service contemplated; all public accessways (including designation of the primary access route); a notation stating that under emergency conditions, all temporary structures shall be removed immediately or as directed by the community's emergency management officer; any special provisions such as parking, limitations on signs, sewer treatment plan, refuse disposal plan, fire hydrants, fire suppression; installation, construction, repair, or changes required by the use and clear indication of the purpose and location of the proposed work; name of person requesting special use permit (includes individuals, groups of individuals, partnerships or corporations);

COMMUNITY ADMINISTRATION: Temporary Structures

- ! Specifically limit of the use of temporary structures to **certain parcels of land**.
- ! Specify a **minimum lot size** and appropriate **setbacks** (recommend 50 feet from all).
- ! Require that the **primary access** serving the site shall have right-of-way width and street surface conforming to all applicable minimum community standards and requirements for such streets.
- ! Require all **federal, state, county, and local requirements** for licensing, operation, equipment, numbering, and all other matters.
- ! Before the issuance of any special permit, have the applicant **execute a bond** sufficient to secure all requirements of the regulations/conditions governing the special use permit including the requirements defined in the evacuation plan, final restoration of the site, and any other applicable ordinances of the community.
- ! Such **bond shall also be approved** by the governing body of the community as to form, sufficiency and manner of execution, and should run for the same term as the special permit.
- ! Set a specify **length of time** for special use permits.
- ! **Set each special use permit** individually to allow conditioning to fit the exact site.
- ! Issue the special use permits **purely as a personal privilege** that cannot be transferred to any other potential user.
- ! **Limit requests for extensions**. The community is not obligated to grant extensions to special use permits and by design these permits should be used sparingly and for a limited time and purpose. If a community chooses to hear extensions, it should consider what extent of review is necessary to determine the further need for the temporary structures and promote the timely conclusion of the temporary use of the site.
- ! **Limit the time** that the special use permit can be extended.
- ! If a special use permit is **extended**, require the actual removal of the structures be accomplished at least once each 180 days.