
ARTICLE

35

**TEMPORARY COMMERCIAL DISPLAYS,
SEASONAL TEMPORARY COMMERCIAL DISPLAYS,
STORAGE TRAILER PERMITS AND
TEMPORARY USE PERMITS**

SECTION 3500

Intent

The intent of this article is to permit the sale of seasonal goods under particular circumstances and to benefit the general public by providing access to general commercial goods and services by allowing temporary commercial displays, sales, and contract sales of goods and services on hard surfaced areas with adequate parking for both the principle use as well as the temporary commercial display. Such displays are subject to certain requirements and, if these requirements cannot be satisfied, the display is prohibited. It is also the intent of this article to permit Temporary Storage Trailers as defined in Article 40, subject to specified performance standards, to account for seasonal fluctuations in inventory and storage needs for merchants.

The following sequence of Section 3510 through Section 3545 applies to Unincorporated Boone County only.

SECTION 3510

Temporary Commercial Displays

Temporary Commercial Displays are permitted on hard-surfaced areas located in the Commercial Two (C-2), Commercial Services (C-3), and Recreation (R) zoning districts, subject to the terms and provisions of this Article 35 and other provisions of the zoning regulations as applicable. Tents used as part of a display may be located in yard areas provided they are not placed in required landscape areas. Temporary Commercial Displays are exhibits or showings of products, goods, equipment, or services listed as a principally permitted use in Commercial One (C-1), Commercial Two (2), and Commercial Services (C-3) zoning districts. Additionally, all consumer or common fireworks also known as Class C and Division 1.4G permitted for retail sales to the general public by KRS 227 may be sold and displayed in conformance with all applicable requirements through the issuance of a Temporary Commercial Display permit.

Seasonal Temporary Commercial Displays

Seasonal Temporary Commercial Displays are permitted on hard-surfaced areas located in the Commercial Two (C-2), Commercial Services (C-3), and Recreation (R) zoning districts, subject to the terms and provisions of this Article 35 and other provisions of the zoning regulations as applicable. Tents used as part of a display may be located in yard areas provided they are not placed in required landscape areas. Seasonal Temporary Commercial Displays are pedestrian-oriented in nature and include the exhibit and sale of seasonal items not sold on the premise during the remainder of the year. The retail sale of the particular seasonal good must be listed as a Principally Permitted Use in the Commercial Two (C-2) zoning district and may include such items as Christmas trees, pumpkins, seasonal plants and seasonal food products. Additionally, all consumer or common fireworks also known as Class C and Division 1.4G permitted for retail sales to the general public by KRS 227 may be sold and displayed in conformance with all applicable requirements through the issuance of a Seasonal Temporary Commercial Display permit.

The construction of Temporary Commercial Displays and Seasonal Temporary Commercial Displays shall be stationary in nature such as when conducted in tents and buildings and shall not be mobile in nature as if conducted from a truck or other vehicle. Safety in terms of vehicular circulation, fire separation and accessibility for emergency vehicles, shall be a prime consideration when evaluating the location of the displays. Both types of displays must be positioned so that the existing vehicular and pedestrian traffic flow is not impeded. All applicable building, fire and health codes must also be met.

SECTION 3515

Time Limits for Displays

Temporary Commercial Displays cannot exist or be present on a site in any form, whether open for viewing or not, more than seven (7) consecutive days. Seasonal Temporary Commercial Displays may not exist or be present on a site in any form, whether open for viewing or not, more than thirty (30) consecutive days.

SECTION 3520

Permit Required

Prior to placing any Temporary Commercial Display or Seasonal Temporary Commercial Display on any property, the person or persons owning or having control or supervisory authority of such display shall apply and be required to obtain a permit from the Zoning Administrator for the display.

SECTION 3521

Application Contents

The application must contain the following information and be submitted with three copies of the appropriate drawings or plans:

1. Name, address, telephone number and signature of the owner of the property where the display is proposed to be located.
2. Indicate any existing development, structures and types of uses on the site as well as on adjoining sites of the proposed temporary commercial display.
3. Show the dimensions and location of the area to be used for the temporary commercial display on the site. The front, side, and rear setbacks of the area to be used for the display must also be indicated.
4. Estimate the maximum number of parking spaces to be used by the temporary commercial display; the number of parking spaces to be "borrowed" from the site's principle commercial establishment, if applicable.
5. Accurately state and describe the amount and type of goods or services to be on display.
6. State the dates the display is to be located on the site.
7. Depict all structures regardless of nature to be part of the temporary commercial display, including tents, canopies, fences or barriers of any kind.
8. Indicate traffic access to the temporary commercial display as well as parking and vehicular circulation areas.
9. Indicate anticipated flow of pedestrian and vehicular traffic, if applicable, on the site relative to existing commercial or recreational developments and the temporary commercial display.

The zoning administrator shall review the application and determine within three (3) working days from submittal date whether or not the plan conforms with this Article 35 and all other applicable provisions of these zoning regulations.

SECTION 3525

Review of Zoning Administrator

The Zoning Administrator is permitted to issue a permit for the Temporary Commercial Display or Seasonal Temporary Commercial Display upon receiving a completed application containing all the information required in this Article 35 and all other provisions of the zoning regulations, as well as the full applicable fee. After reviewing the completed application, the Zoning Administrator may issue a permit if review of the application and plans submitted indicates that:

1. The Temporary Commercial Display or Seasonal Temporary Commercial Display as depicted is compatible with existing commercial or recreational development on the site;
2. Anticipated pedestrian and vehicular traffic flow is shown to be compatible with existing traffic patterns at the site.
3. Minimum parking requirements are met on site for both the existing use(s) and Display and the maximum estimated parking spaces necessary for the Display is not anticipated to detract from parking area provided for existing commercial or recreational developments at the site.
4. No structure shown will block, impair or otherwise unduly inconvenience patrons of existing commercial developments on the site. To ensure the safety of the individuals utilizing the site, retain a positive aesthetic view and adequate parking, the location of all proposed structures and display areas will be evaluated in regard to pedestrian and vehicular traffic patterns, emergency access, access points, parking lots, setbacks, and existing structures.
5. Proposed site is hard surfaced, and is located in a Commercial Two (C-2), Commercial Services (C-3), or Recreation (R) zoning district. Tents used as part of a display may be located in yard areas provided they are not placed in required landscape areas. Proposed use is principally permitted in C-1, C-2 or C-3 for a TCD and C-2 for a Seasonal TCD.
6. The construction of the Display is not mobile in nature such as a truck or other vehicle but contained within a building or tent.
7. All other applicable requirements of this order have been fulfilled.
8. Any deviation in the location of a display from the requirements of the Zoning Regulations must be approved by the Zoning Administrator.

SECTION 3526

Refusal to Issue Permit

If the Zoning Administrator refuses to issue a permit for a Temporary Commercial Display or Seasonal Temporary Commercial Display, he shall set forth the reasons for such refusal in writing and submit the findings to the applicant with his refusal to issue the permit. Submission of the findings of fact upon which the refusal is based shall be made no later than three (3) working days from the date the completed application and fee were submitted.

SECTION 3530

Appeal to Board of Adjustment and Zoning Appeals

An applicant refused a permit for the Temporary Commercial Display or Seasonal Temporary Commercial Display by the Zoning Administrator may appeal to the Board of Adjustment and Zoning Appeals which has jurisdiction over the site upon which the display was to be located in accordance with the provisions of Article 2.

SECTION 3535

Fee

At the time of application for a Temporary Commercial Display or Seasonal Temporary Commercial Display permit, the applicant shall pay in full to the Boone County Planning Commission a fee as indicated in the adopted fee schedule.

SECTION 3540

Sales and Contracts Allowed

At any Temporary Commercial Display or Seasonal Temporary Commercial Display for which a permit has been issued, sales or contracts for selling or providing the goods or services that are the subject of the approved Temporary Commercial Display or Seasonal Temporary Commercial Display shall be allowed.

SECTION 3545

Limit of Permits on each Site

The purpose of this Article is to provide access by the public to commercial displays, exhibits or events of limited duration rather than to establish a regular or long-term use of land. Thus, no permit shall be issued for a site under this Article that has had three (3) prior Temporary Commercial Display permits issued during the same calendar year for the same site. Only one (1) Seasonal Temporary Commercial Display is permitted for a site during each calendar year.

The following sequence of Section 3510 through Section 3545 applies to the City of Florence, City of Union and City of Walton only.

SECTION 3510

Temporary Commercial Displays

Temporary Commercial Displays shall consist of: (1) Exhibits or showings of goods or services which are ancillary to an existing business establishment. The goods or services must be of the same general type as those displayed or sold by the business establishment to which the display is ancillary. The goods or services must be listed as principally permitted uses in Commercial One (C-1), Commercial Two (C-2), and Commercial Services (C-3) zoning districts. This type of Temporary Commercial Display must occur on the same premises occupied by the business establishment to which it is ancillary and those premises must be owned or leased by the business establishment conducting the commercial display, and sales may only be conducted by the same business establishment that owns or leases the permanent business premises; or

The following version of Section 3510, Subsection 2 applies to the City of Florence only.

(2) The display and sale of motor vehicles (Ordinance No. 0-19-04 in the City of Florence), and the display and sale of seasonal goods, including Christmas trees, pumpkins, seasonal plants, and seasonal food products, but shall not include fireworks of any type in the City of Florence, Kentucky. Seasonal plants are defined as plants that typically germinate, flower, and die in one year which may include items such as flowers, food plants, and grains, but do not include plants that typically live longer than two years such as potted house plants or landscape nursery stock such as trees or shrubs.

The following version of Section 3510, Subsections 2 and 3 applies to the City of Union and City of Walton only.

(2) The display and sale of motor vehicles (and the display and sale of seasonal goods including Christmas trees, pumpkins, seasonal plants, and seasonal food products, all consumer or common fireworks also known as Class C and Division 1.4G permitted for retail sales to the general public by KRS 227 may be sold and displayed in conformance with all applicable requirements through the issuance of a Temporary Commercial Display permit; (3) Temporary Commercial Displays allowed by approved concept development plans shall be governed by the provisions of the approved plan.

Temporary Commercial Displays are permitted on hard-surfaced areas located in the Commercial Two (C-2), Commercial Services (C-3), and Recreation (R) zoning districts, subject to the terms and provisions of this Article 35 and other provisions of the zoning regulations as applicable. Tents used as part of a display may be located in yard areas, provided they are not placed in required landscape areas or rights of way.

The construction of Temporary Commercial Displays shall be stationary in nature such as when conducted in tents and buildings and shall not be mobile in nature as if conducted from a truck or other vehicle. Safety in terms of vehicular circulation, fire separation and accessibility for emergency vehicles, shall be a prime consideration when evaluating the location of the displays. Displays must be positioned so that the existing vehicular and pedestrian traffic flow is not impeded. All applicable building, fire and health codes must also be met.

SECTION 3515

Time Limits for Displays

Temporary Commercial Displays cannot exist or be present on a site in any form, whether open for viewing or not, more than ten (10) consecutive days.

SECTION 3520

Permit Required

Prior to placing any Temporary Commercial Display on any property, the person or persons owning or having control or supervisory authority of such display shall apply and be required to obtain a permit from the Zoning Administrator for the display.

SECTION 3521

Application Contents

The application must contain the following information and be submitted with three copies of the appropriate drawings or plans:

1. Name, address, telephone number and signature of the owner of the property where the display is proposed to be located and the operator of the business activity where the display is proposed to be located.
2. Indicate any existing development, structures and types of uses on the site as well as on adjoining sites of the proposed temporary commercial display.
3. Show the dimensions and location of the area to be used for the temporary commercial display on the site. The front, side, and rear setbacks of the area to be used for the display must also be indicated.
4. Estimate the maximum number of parking spaces to be used by the temporary commercial display; the number of parking spaces to be "borrowed" from the site's principle commercial establishment, if applicable.
5. Accurately state and describe the amount and type of goods or services to be on display.
6. State the dates the display is to be located on the site.
7. Depict all structures regardless of nature to be part of the temporary commercial display, including tents, canopies, fences or barriers of any kind.
8. Indicate traffic access to the temporary commercial display as well as parking and vehicular circulation areas.
9. Indicate anticipated flow of pedestrian and vehicular traffic, if applicable, on the site relative to existing commercial or recreational developments and the temporary commercial display.
10. An approved Transient Merchant Permit from the Boone County Clerk, if applicable.

The zoning administrator shall review the application and determine within three (3) working days from submittal date whether or not the plan conforms with this Article 35 and all other applicable provisions of these zoning regulations.

SECTION 3525

Review of Zoning Administrator

The Zoning Administrator is permitted to issue a permit for the Temporary Commercial Display upon receiving completed application containing all the information required in this Article 35 and all other provisions of the zoning regulations, as well as the full applicable fee. After reviewing the completed application, the Zoning Administrator may issue a permit if review of the application and plans submitted indicates that:

1. The Temporary Commercial Display as depicted is compatible with existing commercial or recreational development on the site;
2. Anticipated pedestrian and vehicular traffic flow is shown to be compatible with existing traffic patterns at the site.
3. Minimum parking requirements are met on site for both the existing use(s) and Display and the maximum estimated parking spaces necessary for the Display is not anticipated to detract from parking area provided for existing commercial or recreational developments at the site.
4. No structure shown will block, impair or otherwise unduly inconvenience patrons of existing commercial developments on the site. To ensure the safety of the individuals utilizing the site, retain a positive aesthetic view and adequate parking, the location of all proposed structures and display areas will be evaluated in regard to pedestrian and vehicular traffic patterns, emergency access, access points, parking lots, setbacks, and existing structures.
5. Proposed site is hard surfaced, and is located in a Commercial Two (C-2), Commercial Services (C-3), or Recreation (R) zoning district. Tents used as part of a display may be located in yard areas provided they are not placed in required landscape areas or rights-of-way. Proposed use is principally permitted in C-1, C-2 or C-3 for a TCD.
6. The construction of the Display is not mobile in nature such as a truck or other vehicle but contained within a building or tent.
7. All other applicable requirements of this order have been fulfilled.
8. Any deviation in the location of a display from the requirements of the Zoning Regulations must be approved by the Zoning Administrator.
9. An approved Occupational License/Payroll Tax Application from the applicable legislative body(ies) for the business activity must be obtained and kept on the premises before a Temporary Commercial Display may be placed or operated on a site.
10. A maximum of two temporary signs may be used in conjunction with a Temporary Commercial Display. A Temporary Advertising Display (TAD) Permit per Section 3420 is not required for these signs. The type of temporary signs permitted to be used with a Temporary Commercial Display include banners, board and placard types, including real estate style signs. These signs shall not exceed 100 square feet in area, 10 feet in height if freestanding, and may not be placed on the roof of a tent or any other structure. Other types of temporary signs, such as banners attached to permanent signs or poles, inflatable devices, any type of portable signs, pennants and streamers, light strings, balloons, and flags, may not be used with a Temporary Commercial Display. A Temporary Advertising Display (TAD) Permit may not be issued for a Temporary Commercial Display to permit the types of temporary signs prohibited under this section.

SECTION 3526

Refusal to Issue Permit

If the Zoning Administrator refuses to issue a permit for a Temporary Commercial Display, he shall set forth the reasons for such refusal in writing and submit the findings to the applicant with his refusal to issue the permit. Submission of the findings of fact upon which the refusal is based shall be made no later than three (3) working days from the date the completed application and fee were submitted.

SECTION 3530

Appeal to Board of Adjustment and Zoning Appeals

An applicant refused a permit for the Temporary Commercial Display by the Zoning Administrator may appeal to the Board of Adjustment and Zoning Appeals which has jurisdiction over the site upon which the display was to be located in accordance with the provisions of Article 2.

SECTION 3535

Fee

At the time of application for a Temporary Commercial Display permit, the applicant shall pay in full to the Boone County Planning Commission a fee as indicated in the adopted fee schedule.

SECTION 3540

Sales and Contracts Allowed

At any Temporary Commercial Display for which a permit has been issued, sales or contracts for selling or providing the goods or services that are the subject of the approved Temporary Commercial Display shall be allowed.

SECTION 3545

Limits of Permits on Each Site

The purpose of this Article is to provide access by the public to commercial displays, exhibits or events of limited duration rather than to establish a regular or long-term use of land. Thus, no permit shall be issued for a site under this Article that has had five (5) prior Temporary Commercial Display permits issued during the same calendar year for the same site.

SECTION 3550

Non-Applicability to Yard Sales, Sidewalk Sales, and Mobile Food/Beverage Sales

This Article 35 shall not apply to regulate or prohibit yard sales where articles or goods are displayed for sales at a person's dwelling and where articles so displayed are personal belongings of such person.

Nor shall this Article 35 apply to sidewalk sales by a commercial establishment which regularly does business on the same premises, where the articles or goods on outdoor display are the same as are usually displayed for sale at its establishment.

This Article 35 shall not apply to mobile food and beverage vendors, such as ice cream, snow cone, coffee, and food trucks, which remain mobile and sell from various locations over the course of the business day versus one fixed location (also refer to Section 3149 regarding the parking or storage of business vehicles).

SECTION 3551

Non-Applicability to Indoor Displays

This Article 35 shall not apply to indoor Temporary Commercial Displays.

SECTION 3560

Temporary Storage Trailer Permits

Temporary Storage Trailers, as defined in Article 40, are permitted within Commercial Two (C-2), Commercial Services (C-3) and Recreation (R) zones subject to the terms and provisions of this Article 35 and other provisions of this order as applicable.

SECTION 3565

Time Limits for Temporary Storage Trailers

Temporary Storage Trailers are permitted on a site for one period of up to sixty (60) consecutive calendar days per calendar year, per address.

SECTION 3570

Temporary Storage Trailer Permit Required

Prior to placing any Temporary Storage Trailer on any property, the person or persons owning or having control or supervisory authority of such trailer(s) shall apply and be required to obtain a permit from the Zoning Administrator. A completed application form as prescribed by the Zoning Administrator, fee, and a plot plan which indicates the location of the Temporary Storage Trailer(s), existing buildings and paved areas, and property lines, shall be submitted. The Zoning Administrator shall review the application and determine within three (3) working days from the submittal date whether or not the plan conforms with this Article 35 and all other applicable provisions of this order.

If the Zoning Administrator refuses to issue a Temporary Storage Trailer Permit, the reasons for such refusal shall be submitted to the applicant in writing within three (3) working days from the date the complete application was submitted. An applicant refused a permit for a Temporary Storage Trailer Permit may appeal such action to the Board of Adjustment and Zoning Appeals in accordance with the provisions of Article 2.

SECTION 3575

Temporary Storage Trailer Permit Performance Standards

The Zoning Administrator shall approve a complete Temporary Storage Trailer Permit application which complies with the following performance standards and all other applicable requirements of this order.

1. Two Temporary Storage Trailers are permitted per permit.
2. Permits are limited to enclosed trailers or portable storage containers.
3. Temporary Storage Trailers shall be placed in the rear yard, except that such units may be located in the front yard or side yard if located in a screened dock or delivery area.
4. Temporary Storage Trailers must be placed on a paved surface and not within designated parking areas.
5. The placement of a Temporary Storage Trailer must meet a minimum 5 foot setback, except that any trailer with a refrigeration unit or other device used for power shall not be located within 200 feet of a property line adjacent to a residential zone or use. Any Temporary Storage Trailer without a refrigeration unit or other device for power shall not be located within 50 feet of a property line adjacent to a residential zone or use.
6. Merchandise shall not be sold directly out of a Temporary Storage Trailer, nor shall a Temporary Storage Trailer be used for the storage of bulk hazardous or toxic materials.
7. No Temporary Storage Trailer shall block, impair, or otherwise unduly inconvenience patrons of existing commercial developments on a site. To ensure the safety of the individuals utilizing the site, a positive aesthetic view must be retained as well as adequate parking. The location of all proposed Temporary Storage Trailers will be evaluated in regard to pedestrian and vehicular traffic patterns, emergency access, access points to the site, parking lots, setbacks, and existing structures.
8. Vertical stacking of Temporary Storage Trailers and stacking of other materials or merchandise on top of any Temporary Storage Trailer is prohibited.
9. A Temporary Storage Trailer shall have no signage other than the name, address, and telephone number of the person or firm engaged in the business of renting or otherwise placing the Temporary Storage Trailer.

10. All Temporary Storage Trailers in use on a lot shall be in a condition free from rust, peeling paint, and other visible forms of deterioration.
11. The property where a Temporary Storage Trailer is placed must be occupied by a principal building, and the Temporary Storage Trailer must serve the requesting business and be located on the requesting business's premises.
12. Any deviation in the location of an approved Temporary Storage Trailer from the location indicated on the approved permit must be approved by the Zoning Administrator.

SECTION 3580

Temporary Storage Trailer Permit Fee

At the time of application for a Temporary Storage Trailer Permit, the applicant shall pay in full to the Boone County Planning Commission a fee as indicated in the adopted fee schedule.

SECTION 3582

Temporary Use Permits

Temporary Use Permits allow seasonal commercial activities which are open to the public and of limited duration on farms which contain at least fifty (50) contiguous acres, regardless of zone. The seasonal commercial activities must be accessory to active agricultural production occurring on the property. Examples include but are not limited to farm tours, hay rides, agricultural exhibits, corn mazes, petting zoos, barn dances, and other agri-tourism activities. Sales of produce grown on the premises or other goods that are related to the seasonal commercial activities are also permitted.

If the proposed activities are listed under the applicable zone as a Conditional Use, a property owner may elect to apply for a Conditional Use Permit per the requirements of Article 2. If a Conditional Use Permit is obtained for the seasonal commercial activities, a Temporary Use Permit is not required and the terms of the Conditional Use Permit apply to the seasonal commercial activities and not the Temporary Use Permit requirements.

SECTION 3584

Time Limits for Temporary Use Permits

Activities authorized by a Temporary Use Permit are permitted on a site for one period of up to six (6) calendar weeks per calendar year.

SECTION 3586

Temporary Use Permit Required

Prior to initiating any activities permitted by a Temporary Use Permit, the person or persons owning or having control of the property shall apply and be required to obtain a permit from the Zoning Administrator. A completed application form as prescribed by the Zoning Administrator, fee, and a plot plan which indicates the location of the proposed temporary activities including parking areas, existing buildings and paved areas, and property lines, shall be submitted. The Zoning Administrator shall review the application and determine within three (3) working days from the submittal date whether or not the plan conforms with this Article 35 and all other applicable provisions of this order.

If the Zoning Administrator refuses to issue a Temporary Use Permit, the reasons for such refusal shall be submitted to the applicant in writing within three (3) working days from the date the complete application was submitted. An applicant refused approval for a Temporary Use Permit may appeal such action to the Board of Adjustment and Zoning Appeals in accordance with the provisions of Article 2.

SECTION 3588

Temporary Use Permit Performance Standards

The Zoning Administrator shall approve a complete Temporary Use Permit application which complies with the following performance standards and all other applicable requirements of this order.

1. The proposed seasonal commercial activities must be accessory to active agricultural production on a site which contains at least fifty (50) contiguous acres.
2. A two-way driveway minimally surfaced with gravel shall be provided between the road and parking area. No specific surfacing material is required for the parking area. A designated parking area which is large enough for the anticipated demand shall be provided on site.
3. The seasonal commercial activities shall be open to the public only between dawn and 9:00 p.m.
4. No amplified sound shall be permitted outdoors.
5. All activities authorized by a Temporary Use Permit, including parking, shall not be located within 200 feet from a side or rear property line adjoining a tract which contains a residence, or within 50 feet from a side or rear property line adjoining a tract with an active agricultural operation. Other than the access drive, all activities authorized by a Temporary Use Permit shall not be located within 50 feet from a road right-of-way.
6. The Zoning Administrator may approve exceptions to the performance standards in this section provided a specific proposal fulfills the essential purpose and effect of the stated requirements.

SECTION 3590

Temporary Use Permit Fee

At the time of application for a Temporary Use Permit, the applicant shall pay in full to the Boone County Planning Commission a fee as indicated in the adopted fee schedule.