

Tiemann, Donna

From: Rusthoven, Jerry
Sent: Tuesday, April 23, 2013 3:14 PM
To: Tiemann, Donna
Cc: Harden, Joi
Subject: RE: Email from austin texas.gov: Temporary Use Permit

Hi Donna and Joi,
Here are my answers to the questions below.

1. A temporary use permit (TUP) last for as long as is stated on the permit. Generally speaking we don't allow TUPs for more than 30 days, these are typically done for Christmas tree sales and pumpkin sales. A TUP is granted at the director's discretion and if one were requested for too long a period of time it would not be issued. I cannot answer the last part of this question.
2. No, unpermitted activity would not count towards a cap. If an unpermitted activity occurred Code Compliance may become involved and notice of violations issued, but otherwise the City would not be aware of the activity. An analogy would be a police officer cannot issue a ticket because someone told him you were speeding yesterday.
3. Generally speaking a TUP is issued for a set period of days. We do not issue TUPs by the hour.
4. This question may be an issue in a lawsuit filed against the City that was recently dismissed by a judge, however the plaintiffs have indicated that they may appeal therefore I would rather not answer this question in an open record. I can say that in the past the City staff have not had trouble understanding what the word outdoors means.
5. The event cap would apply to all churches and schools without regard to the zoning.
6. No question here but the church and school carnivals and fairs that I have been to have not had a greater attendance than the number of people who would be at the school on a school day or the church during a service. We don't think this would be an issue but again we have discretion whether to issue a TUP. If an event seemed out of scale to the size of the property the staff could not issue the TUP.
7. A sound permit and a TUP are two different applications. A person holding an event under a TUP may request a sound permit but is not required to do so if there is no outdoor amplified sound.
8. Both permits may or may not be applied for simultaneously. One does not need to occur before the other.

Jerry Rusthoven, AICP
Current Planning Manager
City of Austin Planning and Development Review Dept One Texas Center 505 Barton Springs Rd 5th Floor P.O. Box 1088
Austin, TX 78767
(512) 974-3207
(512) 974-6054 fax

-----Original Message-----

From: Tiemann, Donna
Sent: Thursday, March 21, 2013 7:54 AM
To: Rusthoven, Jerry
Subject: FW: Email from austin texas.gov: Temporary Use Permit

Hi Jerry,

This is another set of questions relating to item #68:

This message is from Frank W Goodloe. Council Member Morrison,

I am the Treasurer of the Covered Bridge Property Owners Association in Oak Hill. I am requesting a one month postponement to the public hearing scheduled for this Thursday.

The Planning Commission voted on the proposed draft just last week. Many people were out of town for spring break last week and could not attend the Planning Commission hearing. One week between public hearings is not enough time for [our neighborhood] to review the draft ordinance and meet with Council members.

The four events per year limit seems fair and reasonable but there are many problems with the proposed ordinance, including:

1. How long can a single event last? Austin Life just held a 9 day outdoor event. Despite many calls to 311, Code Enforcement never responded to a single complaint and the unpermitted activity continued for 9 straight days. If the City won't enforce the Code against churches, what is the point of any of this?
2. Does an unpermitted activity count toward the 4 per year limit? How would the number of non-permitted events be tracked by the City? The recent nine day event was the second outdoor event held on that property this year.
3. We don't know how long an "event" should be allowed to last but 9 days is way too long to count as only one event. Should events be measured by the number of hours or by the number of days?
4. What is the definition of "outdoors?" Is it a space that is not fully enclosed by walls and a ceiling? Is an activity in an outdoor amphitheater an outdoor activity if the amphitheater has a roof and a certificate of occupancy?
5. How would the revised language be interpreted if a church or school is located on property zoned LO or less restrictive? Does the new C.1 (4 events per year) control over C.2 and C.3 (which don't have a frequency limitation)?
6. Some degree of scaling is necessary when the school or church site is in the middle of a neighborhood. All sense of scaling is lost with the new provision if the primary use is a school or church. All other civic uses are still subject to scaling.
7. If the outdoor activity requires a sound permit, should the temporary use permit approval be rolled into that process? At least there would be notification and an opportunity to appeal.
8. If a sound permit is required, what comes first-the temporary use permit or the sound permit?

On behalf of the Covered Bridge Property Owners Association, I respectfully request a one month postponement to holding the public hearing (agenda item 68) on the proposed amendment to temporary use permit requirements.

Frank W. Goodloe