

**PART 4**

**TEMPORARY USES**

**§27-401. Purposes, Organization and Applicability of This Part.**

1. Section 27-212, "Land Uses, Off-Street Parking and Off-Street Loading," specifies that some land uses may be established in certain zoning districts as "temporary uses." This means that these uses may be operated in these districts only for a limited period of time and only if they are approved by Borough Council. These uses are typically a worthwhile or even vital part of modern community life. However, the drastic effects that they can sometimes have on their neighborhoods necessitates their having a limited lifespan and being under the jurisdiction of Council. Establishing such a temporary use system for Philipsburg is the general purpose of this Part.
2. It is important to note that temporary uses like special exceptions and conditional uses are not deviations from this Chapter or its purposes listed in §27-104, "General Purposes of This Chapter." These uses are both envisioned by this Chapter and if the provisions of this article are followed permitted by this Chapter.
3. The procedure that an applicant is to use to obtain a temporary use is spelled out in §27-402, "Procedure for Obtaining a Temporary Use." The standards that the Borough Council is to use in determining whether or not a temporary use should be granted to an applicant and how long the temporary use should be allowed to exist are provided in §27-403, "Standards that are to be Used to Grant a Temporary Use." This Part only applies to land uses that are proposed to be established in a zoning district where they are allowed as temporary uses by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."

(Ord. 984, 6/14/1999, Art. IV, §400)

**§27-402. Procedure for Obtaining a Temporary Use.**

All applications for temporary uses shall be made according to the following rules:

- A. Who May Apply. Any landowner or tenant with the written permission of his or her landowner may apply for a temporary use.
- B. Land Uses that may be Permitted through a Temporary Use. The only land uses that may be permitted through a temporary use are those that are expressly permitted as temporary uses in the involved zoning district by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading."
- C. Applying to the Zoning Officer. Any one of the aforementioned parties who wishes to establish a temporary use shall file an application with the Zoning

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Officer on a form supplied by the Borough. This application shall state the period of time during which the applicant wishes to operate the proposed use, and shall not be considered complete unless enough information is included on the form to enable Borough Council to determine if the proposed use meets the standards of §27-403. Upon receiving a complete application, the Zoning Officer shall forward it to Borough Council.

- D. The Procedure that Borough Council is to Use in Deciding on a Temporary Use Application. The procedure that Borough Council is to use in deciding whether or not to grant a temporary use is given in §27-703(2), "Borough Council."
- E. Burdens of Proof. In temporary use hearings, the burden of proof shall be on the applicant to prove that his or her proposed use meets the standards prescribed for it by S§27-403, "Standards that are to be Used to Grant a Temporary Use."
- F. Appealing the Decision of the Borough Council. The decision of the Borough Council regarding a temporary use application may be appealed to the Centre County Court of Common Pleas.
- G. Occupancy Permits. An applicant who successfully applies for a temporary use must also obtain an occupancy permit for that use after all development activities on the involved site are completed. §27-116, "Occupancy Permits" explains how to obtain such a permit.
- H. Violations. If a party that receives a temporary use subsequently violates the standards under which that use was granted, those standards shall be enforced according to the provisions of §27-119, "Enforcement."

(Ord. 984, 6/14/1999, Art. IV, §405)

### **§27-403. Standards That are to be Used to Grant a Temporary Use.**

1. Purpose and Organization of this Section. The purpose of this Section is to provide standards that the Borough Council is to use in deciding whether or not to grant a temporary use and determining how long an approved temporary use should be allowed to exist. The former set of standards are listed under subsection (2) below, while the latter set are listed under subsection (3). Each land use or activity that is permitted as a temporary use in one or more zoning districts by §27-212, "Land Uses, Off-Street Parking and Off-Street Loading" is listed in alphabetical order below:

<b>Temporary Uses</b>	<b>Zoning Districts In Which They Are Permitted</b>
model home sales office	R1A, R1B, R2, and R3

<b>Temporary Uses</b>	<b>Zoning Districts In Which They Are Permitted</b>
multi-household residential complex sales office	R2 and C1
sales event (temporary)	C1, C2, and I
special event, festival, fair exhibit, or show sponsored by a nonprofit organization	all zoning districts
special event, festival, fair, exhibit, or show that is not in the above category	C1, C2, and I

2. Standards that the Borough Council is to Use in Determining Whether or Not to Grant a Temporary Use. Borough Council may only grant a temporary use to an applicant if the applicant:
  - A. Provides proof that the proposed use will have adequate off-street parking.
  - B. Provides proof that the proposed use will have adequate pedestrian and traffic access.
  - C. Has obtained all licenses and permits on the proposed use's behalf that governmental agencies may require for the selling or handling of food or other products.
  - D. Has notified the Borough's Chief of Police and Fire Chief of the proposed use.
  - E. Provides Council with a letter from the owner of the land on which the proposed use will occur that approves the use (if the applicant does not own the land himself).
  - F. Provides Council with a letter stating that he or she will assume responsibility for any on-site activities that are directly related to the proposed temporary use.
  
3. Standards that the Borough Council is to Use in Determining How Long a Temporary Use Should be Allowed to Exist. If an application for a temporary use is approved, Council shall determine the dates between which the use will be permitted to operate. In making this determination, Council shall weigh the temporary use's benefit to the community against any burdens that it may cause its neighbors. However, the Council shall not allow a single land use to have temporary sales events for more than 30 days in any calendar year.

(Ord. 984, 6/14/1999, Art. IV, §410)

