Sec. 27-614. Temporary Uses and Structures.

A. Definitions. For the purposes of this Section, the definitions found in BMCC Section 27-201 for both Temporary Uses and Temporary Structures shall be used in the regulation of such uses and structures. In addition, all uses contained in temporary structures shall be considered temporary uses of property and therefore must comply with the provisions of this section. All temporary uses and structures shall also comply with the Uniform Fire Code.

This section shall not apply to Sidewalk Vendors governed by Article 7-1200 of the Billings, Montana City Code.

B. Temporary Uses In Nonresidential Zoning Districts.

1. Group 1 Temporary Uses. This group shall be defined as temporary uses of property continuing for <u>less than forty-eight (48) hours</u>. Such uses shall be exempt from this section.

2. Group 2 Temporary Uses. This group shall be defined as temporary uses of property continuing for <u>longer than forty-eight (48) hours but less than thirty (30) days</u>.
    a. The following temporary uses may be allowed in this temporary use group:
        1. Carnival, circus, Christmas tree sales or other uses as allowed in the district regulations in BMCC 27-306.
    b. Supplemental Standards.
        1. Two (2) signs not to exceed thirty-two (32) square feet in area and eight (8) feet in height shall be allowed, excluding A-frame signs, and shall be removed along with the temporary use and structure, when the approved time limit or temporary use/structure permit has expired;
        2. Clear Vision Standards set forth in BMCC Section 27-615 shall be followed;
        3. Access to any public right-of-way must be approved by the City Engineer's or County Public Works office; and
        4. A temporary use/structure permit shall be obtained by the owner and a business license shall be obtained by the operator.

3. Group 3 Temporary Uses. This group shall be defined as temporary uses of property continuing for <u>longer than thirty (30) days but less than one (1) year</u>.
    a. The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in the district regulations in BMCC Sections 27-305 and 27-306:
        1. Greenhouses or other similar seasonal-oriented uses, as determined by the Zoning Coordinator;
        2. Portable classrooms;
        3. Portable offices; or
        4. Other uses, such as carry-out food and/or beverage service.

b. Location Restrictions.

1. Any Group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable city or county site development regulations, shall comply with such standards within one (1) year from the date of the enactment of this section or any amendment thereto;
2. Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable city or county site development regulations, including surfacing and number of required off-street parking spaces;
3. The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist on the date of adoption of these regulations, shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this Section; and
4. Temporary uses as listed in above subsection 3(a)(4) shall also comply with the following criteria:
    a. Maximum size of the structure shall be 10 feet by 10 feet or 100 square feet;
    b. Site circulation shall be approved by the City Traffic Engineer or County Public Works Director, along with the location of any drive-in window. This group of temporary uses shall be exempt from any Special Review requirements for drive-in service;
    c. The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
    d. Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
    e. All structures are subject to local, county and state Health and Environmental Science requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.

c. Supplemental Standards.

1. When submitting for a temporary use/structure permit, a Group 3 use shall provide the following:
    a. Existing site plan, including parking stalls and buildings;
    b. Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
    c. Location of drive-in service, if applicable;

d. Setbacks from property lines and arterial streets;
e. Size of temporary structure; and
f. Proposed use of the temporary structure.

2. One hundred (100) square feet of total sign area may be allowed provided that no sign shall exceed eight (8) feet in height nor shall any one (1) sign face exceed thirty-two (32) square feet, excluding A-frame signs, and shall be removed along with the temporary use, when the approved time limit or temporary use/structure permit has expired;
3. The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
4. Clear Vision Standards set forth in BMCC Section 27-615 shall be followed;
5. Access to any public right-of-way must be approved by the City Engineer's or County Public Works office;
6. It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
7. All temporary structures, regardless of size, which contain electrical wiring, shall have such electrical wiring permitted, inspected and approved by the City of Billings Building Division. All temporary structures that exceed 120 square feet, except greenhouses, shall have the structure permitted, inspected and approved by the City of Billings Building Division or labeled as a factory-built structure by the State of Montana Building Codes Bureau prior to issuance of a temporary use/structure permit; and
8. A temporary use/structure permit shall be obtained by the owner and a business license shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one (1) year. An annual renewal may be given by the Zoning Coordinator, provided that the use complies with the above requirements. However, permits for portable offices or classrooms may be renewed only one time per location.

C. Temporary Uses in Residential or Agricultural Zoning Districts. In any residential district, the temporary use of land for uses listed below may be allowed for a period not to exceed thirty (30) days, when a temporary use/structure permit is obtained.

1. Christmas Tree Sales. The sales of Christmas trees in residential zoning districts shall be allowed when all of the following restrictions are met:
   a. The sale must be conducted on a church or school parking lot premises which provides sufficient space to accommodate the Christmas trees and off-street parking for customer and other sale related vehicles;

b. One (1) sign, not to exceed thirty-two (32) square feet in area, shall be allowed for this temporary use, and such sign shall be removed along with the temporary use and structure, when the approved time limit or temporary use/structure permit has expired;
c. Clear Vision Standards set forth in BMCC Section 27-615 shall be followed; and
d. A temporary use/structure permit shall be obtained by the owner and a business license shall be obtained by the operator.

2. Roadside Stands. The sale of flowers or produce at temporary roadside stands shall be allowed when all of the following restrictions are met:
    a. Only items which are produced on the premises may be sold on the premises;
    b. Any structure used must be portable and removed after the temporary use/structure permit has expired. However, structures which are located in the Agricultural-Open Space (A-1) Zoning District may be used even if they are permanent;
    c. One (1) sign, not to exceed thirty-two (32) square feet in area, shall be allowed for this temporary use, and such sign shall be removed along with the temporary use and structure, when the approved time limit or temporary use/structure permit has expired;
    d. The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;
    e. No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the Clear Vision Standards set forth in BMCC Section 27-615;
    f. Access to any public right-of-way must be approved by the City Engineer's or County Public Works office; and
    g. A temporary use/structure permit shall be obtained by the owner and a business license shall be obtained by the operator.

D. Fireworks Stands. The erection of a temporary fireworks stand may be permitted if it meets the following restrictions:

1. The stand is located outside the limits of the City of Billings and is situated in one of the following zoning districts:
    a. Public (P) zone;
    b. Community Commercial (CC) zone;
    c. Highway Commercial (HC) zone;
    d. Controlled Industrial (CI) zone;
    e. Heavy Industrial (HI) zone; or
    f. Agricultural-Open Space (A-1) zone.

2. No fireworks stand shall be allowed to operate within 500 feet of any other structure. Nor shall any fireworks stand be allowed to operate within 1,500 feet of structures which have any flammable or combustible liquid handling, distribution or sales (including gas pumps);
3. All fireworks stands shall display warning signs in red letters on white background with letters not less than three (3) inches in height and one-half (2) inch in stroke. Such signs shall state:

a. Danger - Explosives
b. No Smoking
c. No Discharge of Fireworks within 500 feet
d. No parking of flammable or combustible liquid transportation vehicles within 500 feet

4. There must be a minimum of fifty (50) feet clear cut radius measured from the corner of each exterior wall. Vegetation within this radius shall be a maximum of two (2) inches in height and shall be raked clean of any dead vegetation. Any trees within this radius will be subject to review and approval by the County Fire Marshal;

5. Each fireworks stand shall have a minimum of two (2) pressurized water extinguishers (class 2A or approved equivalent) on premises at all times;

6. Location of each stand shall also be approved by the County Fire Marshal;

7. Each fireworks stand shall be setback a minimum of fifty (50) feet from any public right-of-way;

8. All fireworks stands shall receive fire protection from a fire protection service licensed or registered in the State of Montana;

9. An application for a permit must be submitted a minimum of fifteen (15) working days prior to the fireworks season, as defined by M.C.A. 50-37-106. The sale of fireworks shall only be allowed within this time period. However, the fireworks stand, without any sales occurring, may be allowed to be erected between June 17 through July 12;

10. Two (2) signs, not to exceed thirty-two (32) square feet in area each, shall be allowed for this temporary use and such sign(s) shall be removed along with the temporary use and structure, when the approved time limit expires;

11. The fireworks stand must provide sufficient space to accommodate the stand and off-street parking for customer and other sale-related vehicles;

12. An "Application For Sale of Fireworks" must be obtained and signed by the Planning Department, County Fire Marshal, Yellowstone County Treasurer and the applicant. In addition, the applicant must obtain "Proof of Fire Protection";

13. No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way; and

14. Access to any public right-of-way must be approved by the County Public Works office.

E. Temporary Structures.

1. Construction or Equipment Sheds. The temporary use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the structure is part of an approved construction project. In addition, all structures shall meet the following criteria:
    a. Any such structure shall be removed upon completion of the construction project; and
    b. No such structure shall be used for living or sleeping purposes.

2. Other Temporary Structures. Temporary structures not used for Construction or Equipment Sheds may be allowed when the following criteria are met:
    a. The structure shall meet the applicable setbacks for the zone in which it is located, including Arterial Setbacks as found in BMCC Section 27-602;
    b. The structure shall meet the Clear Vision Standards set forth in BMCC Section 27-615;
    c. No such structure shall be used for living or sleeping purposes; and
    d. The use of the structure shall comply with BMCC Sections 27-614(B) and 27-614(C), whichever is applicable.
    e. A temporary use/structure permit shall be obtained by the owner.

3. Time Limit Established. The Zoning Coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above subsections (B) or (C), whichever is applicable. The structure shall be removed when the temporary use is discontinued or the permit has expired. An extension for the renewal of the temporary structure permit only, may be granted by the Zoning Coordinator, if it is found that unusual and/or extraordinary circumstances exist.

F. Temporary Use/Structure Permit Required. Before any temporary use or structure is established, the property owner shall obtain a temporary use/structure permit from the Zoning Coordinator or his/her designee. In addition, the property owner shall post a $1,500 bond, money order or cashiers check with the Planning Department to ensure timely removal of the use and/or structure. The Zoning Coordinator or his/her designee may establish a time period which is less than the maximum time period allowed, however, this shall apply only to greenhouses or other seasonal-oriented uses in above subsection (B) allowed as Group 3 Temporary Uses.

If you have questions regarding these regulations, please call the Planning Department at 657-8246.