

**ORDINANCE NO. 2009-**

**AN ORDINANCE MODIFYING THE USE STATUS OF RETAIL USES AS TEMPORARY USES IN THE FREEWAY DEVELOPMENT FD-1 AND FD-2 DISTRICTS FROM TEMPORARY CONDITIONAL USES TO INTERIM USES; MODIFYING THE USE STATUS OF TANNING SALONS IN OFFICE BUILDINGS IN THE FREEWAY DEVELOPMENT FD-1 AND FD-2 DISTRICTS FROM TEMPORARY CONDITIONAL USES TO PERMITTED ACCESSORY USES; MODIFYING THE USE STATUS OF TRANSIENT MERCHANT SALES IN THE INDUSTRIAL I-2 DISTRICTS, THE FREEWAY DEVELOPMENT FD-1 AND FD-2 DISTRICTS, THE MIXED USE CX-2 DISTRICTS, THE COMMERCIAL SERVICE CS-1 DISTRICTS, AND THE CONSERVATION SC DISTRICTS FROM TEMPORARY CONDITIONAL USES TO PERMITTED ACCESSORY USES WITH RESTRICTIONS; MODIFYING THE USE STATUS OF TRANSIENT MERCHANT SALES IN THE GENERAL COMMERCIAL B-2 DISTRICTS AND FREEWAY COMMERCIAL C-2 DISTRICTS FROM PERMITTED ACCESSORY USES TO PERMITTED ACCESSORY USES WITH RESTRICTIONS; ADDING TRANSIENT MERCHANT SALES IN THE SINGLE-FAMILY RESIDENTIAL R-1 DISTRICTS, HIGH INTENSITY MIXED USE WITH RESIDENTIAL HX-R DISTRICTS, INDUSTRIAL I-1 AND I-3 DISTRICTS, REGIONAL COMMERCIAL CR-1 DISTRICTS, FREEWAY OFFICE AND SERVICE C-1 DISTRICTS, FREEWAY COMMERCIAL CENTER C-3 DISTRICTS, FREEWAY OFFICE C-4 DISTRICTS, AND THE FREEWAY MIXED USE C-5 DISTRICTS AS PERMITTED ACCESSORY USES WITH RESTRICTIONS; ADDING TEXT PERTAINING TO THE LOCATION OF TRANSIENT MERCHANT SALES TO CHAPTER 14; DELETING CHRISTMAS TREE LOTS AND CIRCUSES IN THE SINGLE-FAMILY RESIDENTIAL R-1, AND R-1A DISTRICTS AS TEMPORARY CONDITIONAL USES; MODIFYING THE USE STATUS OF UNLICENSED FAMILY DAY CARE CENTERS IN THE SINGLE-FAMILY RESIDENTIAL R-1 AND R1-A DISTRICTS FROM TEMPORARY CONDITIONAL USES TO CONDITIONAL USES; MODIFYING THE USE STATUS OF PHYSICAL EXERCISE FACILITIES IN THE INDUSTRIAL I-1, I-2, AND I-3 DISTRICTS FROM TEMPORARY CONDITIONAL USES TO CONDITIONAL USES; CLARIFYING CHAPTER 14 PROVISIONS EXEMPTING FARM AND GARDEN PRODUCTS; THEREBY AMENDING CHAPTERS 14, 19, AND 21 OF THE CITY CODE**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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**CHAPTER 14**  
**LICENSES AND PERMITS**

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**ARTICLE IV. BUSINESS LICENSES AND REGULATIONS**

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**SEC. 14.183. EXCEPTIONS.**

- (a) **Farm and Garden Products.** Pursuant to Minnesota Statutes, Section 329.14, licensing fees associated with this Division shall not apply to persons who may sell or peddle the products of the farm or garden occupied and cultivated by themselves. Restrictions listed in Section 14.188 (a) of the City Code shall apply to person who may sell or peddle the products of the farm or garden occupied and cultivated by themselves.

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**SEC. 14.188. RESTRICTIONS ON HAWKING, PEDDLING AND TRANSIENT SALES.**

(a) **Transient Merchant Restrictions.**

- (1) **Zoning Compliance.** No transient merchant shall display or offer for sale any merchandise at locations prohibited under Chapter 14, 19, or 21 of this Code. Subject to Code requirements, transient merchant sales are allowed in the following locations:
- (A) As permitted accessory uses in parks in the R-1 and SC Districts when incidental and clearly subordinate to a special event;
  - (B) As permitted accessory uses when interior to hotels or motels in all Zoning Districts that allow hotels or motels;
  - (C) As permitted accessory uses when interior to buildings in the SC District;
  - (D) As permitted accessory uses in the CX-2 District to permitted principal uses;  
and
  - (E) As interim accessory uses in the HX-2 and CO-2 Districts when incidental and clearly subordinate to a special event.

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Section 2. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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**CHAPTER 19**  
**ZONING**

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**ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES**

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**SEC. 19.27. SINGLE-FAMILY RESIDENTIAL (R-1A, R-1) DISTRICTS.**

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**(c) Permitted accessory uses –**

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- (14) Transient merchant sales in parks only, where incidental and clearly subordinate to a special event.

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**(d) Conditional uses.**

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- (9) Reserved. [~~Temporary uses such as Christmas tree lots located upon property owned by a church provided such temporary use is operated by said church.~~]

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- (26) Reserved. [~~Circuses as a temporary use for no longer than 14 days and when located adjacent to arterial streets.~~]

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- (39) Unlicensed family day shelters as defined in Section 19.03 of this Code [as temporary uses].

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**SEC. 19.29. HIGH INTENSITY MIXED-USE WITH RESIDENTIAL (HX-R) DISTRICTS.**

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- (c) Permitted Accessory Uses.** The following uses are permitted when accessory to, clearly subordinate to and physically integrated with a permitted principal or conditional principal use. These accessory uses must not exceed 25 percent of the total floor area for a development or phase thereof.

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- (9) Transient merchant sales in hotel interiors only.

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**SEC. 19.31.01. REGIONAL COMMERCIAL (CR-1) DISTRICTS.**

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**(b) Permitted Principal Uses -**

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(9) Transient merchant sales as an accessory use in hotel interiors only.

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**SEC. 19.33. INDUSTRIAL (I-1, I-2, AND I-3) DISTRICTS.**

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**(c) Permitted accessory uses -**

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(10) Transient merchant sales in hotel interiors only.

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**(d) Conditional uses -**

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(18) Physical exercise facilities as ~~temporary~~ uses not to exceed 10 percent (10%) of the total square footage of the building.

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(21) Reserved. ~~[Transient merchant sales in Limited Industry (I-2) Zoning Districts.]~~

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**SEC. 19.34. FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.**

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**(c) Permitted accessory uses -**

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(13) Tanning Salons as accessory uses in office buildings.

(14) Transient merchant sales in hotel interiors only.

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**(d) Conditional uses -**

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- (17) ~~Reserved. [Fanning Salons as temporary uses in office buildings.]~~
- (18) ~~Reserved. [Transient merchant sales.]~~
- (19) ~~Reserved. [Retail Sales as temporary uses in structures primarily devoted to office, warehouse, wholesale and manufacturing uses, subject to the following:
  - (A) ~~The floor area used for retail sales in the building or complex of buildings shall not occupy more than ten percent of the gross leasable area.~~
  - (B) ~~Adequate parking for all uses within the building or complex of buildings shall be provided in conformance with the requirements of Section 21.301.06 of this Code.~~
  - (C) ~~The property owner, if not the applicant for the proposed use, shall be a co-applicant and shall be responsible for adhering to all conditions of approval if the temporary conditional use permit is approved.~~
  - (D) ~~At the time of application, the property owner shall provide a current listing of all tenants within the building or complex of buildings, including mailing name, mailing address, nature of business and amount of square footage of each tenant devoted to office, manufacturing, warehousing, storage, retail and other uses. The property owner shall provide one set of mailing labels containing tenant names and mailing addresses.~~
  - (E) ~~The City shall notify each tenant in the building or complex of buildings of the initial Planning Commission hearing on the proposed use.~~
  - (F) ~~All retail sales shall be conducted within a permanent building.~~
  - (G) ~~The initial temporary conditional use permit shall be issued for no more than one year, with subsequent permits limited to maximum three year periods.]~~~~

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(e) **Interim Uses -**

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- (6) Retail Sales as interim uses in structures primarily devoted to office, warehouse, wholesale and manufacturing uses, subject to the following:
  - (A) The floor area used for retail sales in the building or complex of buildings shall not occupy more than ten percent of the gross leasable area.
  - (B) Adequate parking for all uses within the building or complex of buildings shall be provided in conformance with the requirements of Section 21.301.06 of this Code.
  - (C) The property owner, if not the applicant for the proposed use, shall be a co-applicant and shall be responsible for adhering to all conditions of approval if the interim use permit is approved.
  - (D) At the time of application, the property owner shall provide a current listing of all tenants within the building or complex of buildings, including mailing name, mailing address, nature of business and amount of square footage of each tenant devoted to office, manufacturing, warehousing, storage, retail and other uses. The property owner shall provide one set of mailing labels containing tenant names and mailing addresses.
  - (E) The City shall notify each tenant in the building or complex of buildings of the initial Planning Commission hearing on the proposed use.

- (F) All retail sales shall be conducted within a permanent building.
- (G) The initial interim use permit shall be issued for no more than one year, with subsequent permits limited to maximum three year periods.

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### ARTICLE III. A. ADDITIONAL ZONING DISTRICTS

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#### SEC. 19.40.06. MIXED-USE DISTRICT CX-2.

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(b) **Permitted Principal Uses –**

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- (8) Transient merchant sales as an accessory use.

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- (d) **Conditional Uses.** If the following uses are developed with direct pedestrian access to a mixed-use center and if they meet any other conditions which may be attached, they may be permitted in the CX-2 district.

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- (17) Reserved. [Transient merchant sales (except that the direct pedestrian access to a mixed-use center is not required).]

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#### SEC. 19.40.07. COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

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(b) **Permitted Principal Uses -**

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- (7) Transient merchant sales as an accessory use in hotel interiors only.

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- (d) **Conditional Uses.**

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(8) Reserved. [~~Transient merchant sales in the CS-1 District.~~]

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**SEC. 19.40.10. CONSERVATION DISTRICT SC.**

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(b) **Permitted Principal Uses.**

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(4) Transient merchant sales as an accessory use in a park or government building interior, where incidental and clearly subordinate to a special event.

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(d) **Conditional Uses.**

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(7) Reserved. [~~Transient merchant sales. When reviewing an application for uses under this provision, the City Council may impose conditions to ensure coordination with uses on nearby properties, protection of the public health, safety and general welfare, and avoidance of nuisances to nearby residential properties. It is not required that the City Council make the findings under Sections 19.22(5)(A)(vi) and (viii) of the City Code.~~]

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Section 3. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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**CHAPTER 21**

**ZONING AND LAND DEVELOPMENT**

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**Article II. DISTRICTS AND USES**

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**SEC. 21.209. USE TABLES.**

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(d) **Neighborhood and Freeway Commercial Zoning Districts\***

USE TYPE	ZONING DISTRICT								REFERENCES
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	See Listed Section

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Temporary Uses									
Transient Merchant Sales <u>(interior to hotels)</u>		A		<u>A</u>	A	<u>A</u>	<u>A</u>	<u>A</u>	14.180 to 14.192

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Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Secretary to the Council

APPROVED:

\_\_\_\_\_  
City Attorney