9-2.104 Permanent and Temporary Uses.

Except as otherwise provided in this Title, any use may be permanent or temporary, as defined in this Section. Temporary uses shall be subject to the applicable provisions for Temporary Use Permits in Article 6 of Chapter 7.

(a) **Permanent Use.** A use that is intended to be continuously ongoing at the same location for more than 60 days.

(b) **Temporary Use.** A use that is either not intended be ongoing for more than 60 days, or that is not intended to be continuously ongoing.

(1) One-Time Temporary Use. A use that is intended to be ongoing at the same location for 60 days or less. Typical uses include carnivals, Halloween pumpkin lots, and Christmas tree lots.

(2) Recurring Temporary Use. A use that is intended to recur at the same location at regular or irregular intervals, where each occurrence lasts for seven days or less, the interval between occurrences is at least twice the length of each occurrence, and the total number of occurrences may or may not be limited. The lengths of individual occurrences and the intervals between them shall be measured in whole days. Typical uses include farmers markets and similar recurring events. If an occurrence lasts for more than seven days, each such occurrence shall be considered a separate One-Time Temporary Use pursuant to subsection (b)(1) above. If the interval between occurrences is less than twice the length of each occurrence, the use shall be considered a Permanent Use pursuant to subsection (a) above.

ARTICLE 6. TEMPORARY USE PERMITS

9-7.601 Purpose.

This Article establishes a process for review and approval of uses that are intended to have a limited duration and will not permanently alter the character or physical facilities of the property where they occur.

9-7.602 Applicability.

Except as specified in Section 9-7.603, all temporary uses, as defined in Section 9-2.104(b), require the approval of a Temporary Use Permit, including, but not limited to, carnivals, Halloween pumpkin lots, Christmas tree lots, farmers markets on private or public property, mobile food vendors on private or public property, and other vendors, peddlers, solicitors, or events on private or public property.

9-7.603 Exemptions.

The following temporary uses shall be exempt from the requirement for a Temporary Use Permit:

(a) On-site temporary construction offices and on-site contractors' storage yards, including debris containers.

(b) On-site offices for real estate sales or rental.

(c) Garage and yard sales operated by a resident of the premises where such sales operate for a period of less than two days per quarter per year.

(d) Any use operating on a public street or sidewalk, including, but not limited to, farmers markets as regulated by Chapter 35 of Title 5, and mobile food vendors and other vendors, peddlers, and solicitors as regulated by Chapter 27 of Title 5.

(e) Any other temporary uses otherwise regulated by the Emeryville Municipal Code, including, but not limited to, community events regulated by Chapter 23 of Title 5.

9-7.604 Procedures.

An application for a temporary use permit shall be filed and processed in accordance with the provisions of Article 2, Common Procedures. Applications for temporary use permits shall be considered by the Planning and Building Director, in consultation with the Public Works Director, Chief Building Official, Fire Marshal, Police Chief, and other City staff as deemed appropriate. The application shall be submitted at least 14 days before the temporary use is intended to begin. It shall include a site plan of the proposed use that shows any electrical or plumbing connections, the relation of the temporary use to existing buildings, parking spaces, landscaping, and other features of the site; a description of operating characteristics, including dates, hours, number of employees, expected visitors, and security if appropriate; and any other information deemed necessary by the Director. The Director, at his or her discretion, may give such notice as is deemed appropriate to adjacent property owners or other interested parties. The Director may approve or disapprove an application or require changes or conditions of approval which, in his or her judgment, are necessary to ensure conformity with the provisions of this Article. The Director's decision may be appealed to the Planning Commission.

9-7.605 Findings.

To grant a temporary use permit, all of the following findings must be made:

(a) The proposed use will not adversely affect adjacent properties, their owners and occupants, or the surrounding neighborhood.

(b) The proposed use will not interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use.

(c) The proposed use will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.

(d) The proposed use will not conflict with the intent or requirements of any design review permit, conditional use permit, variance, or planned unit development applicable to the subject property.

(e) Appropriate controls are in place that will ensure that the premises will be kept clean, sanitary, and free of litter.

9-7.606 Duration.

Temporary use permits shall be approved for no longer than the following initial time periods and may be renewed for subsequent time periods of the same duration or less. Each renewal shall require a new application and fee.

(a) **One Time Temporary Uses** (as defined in Section 9-2.104(b)(1))**:**

(1) Mobile Food Vendors located on private or public property (i.e. not on a public sidewalk or public street): one year.

(2) All other One-Time Temporary Uses: 60 days.

(b) **Recurring Temporary Uses** (as defined in Section 9-2.104(b)(2))**:** one year.

9-7.607 Conditions of Approval.

Unless waived by the Director, the following conditions of approval shall apply to all temporary use permits. In approving a temporary use permit, the Director may impose any additional conditions that are deemed necessary to make the findings required by Section 9-7.605.

(a) Any construction or other work shall conform to all applicable codes.

(b) Fire protection and access for fire vehicles shall be maintained, as specified by the Fire Marshal.

(c) All signage shall comply with the Sign Regulations in Article 16 of Chapter 5.

(d) The site of the temporary use shall be maintained free of weeds, litter, and debris for the duration of the temporary use.

(e) The site of the temporary use shall be completely cleaned and all trash, debris, signs, sign supports, and temporary structures and electrical and/or plumbing service shall be removed, within three days following the date specified for termination of the temporary use.

9-7.608 Revocation.

A temporary use permit issued pursuant to this Article shall be subject to suspension, revocation, or modification for the violation of any provisions of this code or for any grounds which would warrant the denial of the issuance of such original permit. The Director may issue a notice of violation for any failure to comply with any requirement of this Article or any condition of the permit. Such notice shall set forth the action necessary to come into compliance and a time frame for compliance. If the noncompliance is not abated, corrected, or rectified within the time specified by the Director in said notice, the Director may revoke, suspend, or modify the permit, upon 30 days' notice. If the Director decides to revoke or suspend the permit, the temporary use shall be removed within 30 days of the Director's decision unless appealed pursuant to Section 9-7.609.

9-7.609 Appeals.

The Director's decision on a temporary use permit application or revocation may be appealed to the Planning Commission pursuant to Article 14.