

DSG Policy Memorandum
Administrative Interpretation
#06-02



DEVELOPMENT SERVICES GROUP
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TO: DSG Staff

FROM: Richard Hart, Development Services Director

DATE: April 17, 2006

RE: Fund Raisers Allowed for Non-Residential Uses in Residential Zones

MICC is silent and without reference to whether fund raising events can be allowed by non-residential uses within residential zones. Certain non-residential uses within residential zones, such as schools, churches, beach clubs, the Boys and Girls Club, and the like, from time to time each year desire to hold fund raising events on their property, outdoors in parking lots or on their lawn surfaces or open spaces. Such events may be auctions, bake sales, farmers markets, member clothing sales, garage sales with household items and other similar special events.

MICC 19.16, "Definitions" defines "Accessory Use" to mean "a use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same lot.

I find that such fundraising activities constitute accessory uses under this definition so long as they remain "incidental" to the primary non-residential use (e.g. church, school, club) use in the residential zone. These fundraising uses must also comply with all conditions of any conditional use permit (CUP) issued to these non-residential uses in residential zones.

It's reasonable to conclude that these fund raising events periodically throughout the year should be allowed as an accessory use to the primary use of the non-profit entity or non-residential use within the residential zone, provided the actual impact of this accessory use does not become overwhelming for the surrounding residential neighborhood

Therefore, the city will interpret the land use code MICC 19 to allow such fund raising events for non-residential uses in residential zones, provided the impacts from such items as parking, traffic, noise, trash, and other public safety issue are not so great as to substantially impact the neighborhood, as determined by the Code Official. Further the fund raising event must be conducted at reasonable times and at reasonable frequencies so as not to change the character or operation of the CUP originally granting the non-residential use in the residential zone, as determined by the Code Official. If such impact from the fund raising event is substantial and outside of what is normally accessory to the primary use of the property, then the Code Official may exercise authority to terminate to fund raising use as not being accessory to the primary use.