

ORDINANCE NO. 1960

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REPEALING TITLE 10.28 ARTICLE 1 "PARADES" OF THE MILWAUKIE MUNICIPAL CODE AND ADOPTING TITLE 11 "MISCELLANEOUS PERMITS" TO DEFINE AND REGULATE TEMPORARY EVENTS.

WHEREAS, Chapter 10.28 Article 1 "Parades" of the City's municipal code regulates parades but does not define or regulate other types of temporary events;

WHEREAS, the City of Milwaukie already has a written policy, application, and review process for temporary events but no formal code language to support this process; and

WHEREAS, more comprehensive code language that defines and regulates all types of temporary events is needed to clarify and support the temporary event process that is already in place;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

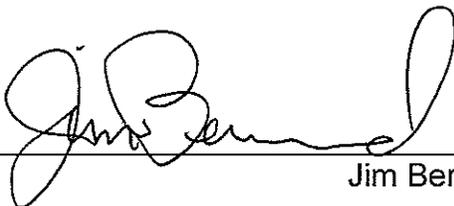
Section 1. Chapter 10.28 Article 1 of the Milwaukie Municipal Code is repealed;

Section 2: Title 11 "Miscellaneous Permits" is adopted as shown in attachment A.

Read the first time on 5/2, and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 5/2/06.

Signed by the Mayor on 5/2/06



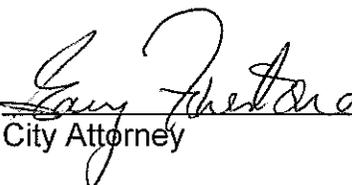
Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, & Corrigan, LLP



Pat DuVal, City Recorder



City Attorney

ATTACHMENT A

Title 11 Temporary Events, Permits and Regulations

Chapter 11.04

11.04.010 Purpose

The purpose of these regulations includes the following:

- a. To define Temporary Events as those which generally do not exceed more than twelve (12) hours in any one day and do not exceed thirty (30) consecutive days and not occurring on a regularly scheduled basis within a year.
- b. To allow the orderly and safe conduct of Temporary Events including Special Events, Block Parties, and Sales Events held on public and private property;
- c. To minimize the potential adverse impacts on affected neighbors and public resources of Temporary Events.
- d. To allow for Temporary Events that are otherwise prohibited by the Milwaukie Zoning Ordinance.

11.04.020 Definitions

Terms used in this chapter are defined in accordance with common and ordinary usage.

A. "Adverse impacts" mean impacts to property and its environs that could result from a Temporary Event including, but not limited to, access and circulation, setbacks, parking, noise, hours of operation, fumes, odors, dust, and traffic. Hazardous activities such as the use of pyrotechnic devices, black powder or smokeless powder, and the use of guns are included.

B. "Applicant" means a person who has filed a written application for a Temporary Event Permit.

C. "City Manager" means the City Manager of the City of Milwaukie or his/her designee.

D. "Permitee" means the person or organization to whom a Temporary Event Permit is granted pursuant to this ordinance.

E. "Person" means an individual, firm, partnership, corporation, association, or other legal entity.

F. "Reimbursable Costs" mean all costs and expenses incurred by the city for activities associated with staging of the Temporary Event, including, without limitation, the following:

- a. Utility services provided to the Temporary Event including all of the costs of installation, maintenance, connection, and removal
- b. Food services inspection
- c. Repair, maintenance and removal of facilities in the event of a failure of promoter
- d. Repair of streets, alleys, sidewalks, parks, and other public property
- e. Police protection
- f. Fire protection
- g. Emergency medical service
- h. Garbage disposal and cleanup
- i. Traffic control
- j. Other direct costs associated with the Temporary Event

ATTACHMENT A

G. "Temporary" means lasting for a limited time, generally not more than twelve (12) hours in any one-day, not exceeding thirty (30) consecutive days, and not occurring on a regularly scheduled basis within a year. Garage sales, as defined in Section 5.08.110, shall not exceed 72 consecutive hours and shall not occur more than twice within any one calendar year.

H. "Temporary Event" is any Special Event, Block Party, or Sales Event defined as follows:

- a. **Special Event** – "Special Event" means a temporary event, or gathering, including, but not limited to, a parade, festival, exposition, show, concert or other similar activity that does not recur on a regularly scheduled basis within a year, is conducted wholly on public property or partly on public property, and is not a permitted use in the zone where it is occurring.
- b. **Block Party** – "Block Party" means a party or celebration that involves the closure of a limited portion of a single local public street, that has attendance of not more than 150 people, and does not include the sale or distribution of alcohol.
- c. **Sales Event** – "Sales Event" is a seasonal or occasional event involving the processing and/or sale of commodities and services. These activities include, but are not limited to, the sale of produce, firewood, fireworks, and Christmas trees. Garage sales are not defined as "sales events" and do not require a special event permit.

I. "Temporary Event Permit" means written approval from the City Manager to hold a Temporary Event.

11.04.030 Authority, Administration, and Enforcement

- a. The City Manager is authorized to administer provisions of this section and to review and approve Temporary Event Permits based on following the procedures and regulations provided within this ordinance. The City Manager or designee may approve, approve with conditions, or deny applications for Temporary Event Permits in accordance with applicable approval criteria.
- b. The City Manager may adopt administrative procedures and forms that are deemed necessary to administer these regulations.
- c. City actions on Temporary Event Applications do not constitute land use decisions or limited land use decisions as defined by the Oregon Revised Statutes. Temporary Events that receive city permits are outright permitted uses and therefore not subject to land use review.
- d. The City Manager may authorize variances from the terms of this Chapter if the City Manager determines that granting the variance will not be contrary to the public interest or the general purpose of this Chapter.
- e. The provisions of this article are cumulative of all city ordinances or other applicable law. All other permits required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Temporary Events must be applied for separately in accordance with the application ordinance or law.

11.04.040 Exemptions

The provisions of this article do not apply to:

- a. events that occur in parks owned by the City of Milwaukie and are maintained by the North Clackamas Parks and Recreation District with the exception of events that are sponsored by the City of Milwaukie;

ATTACHMENT A

- b. events sponsored or conducted by any school, religious, civic, non-profit, or fraternal organization provided such events are held on premises specifically designed or constructed to house the organization and its activities
- c. funeral processions. Regulations and restrictions for funeral processions are contained in Section 10.28.060;
- d. garage sales or yard sales as described in Section 5.08.110;
- e. league play or tournaments by athletic associations in parks or recreational centers intended for such activities;
- f. any event or activity that is otherwise permitted on the property under applicable zoning regulations.

Exemptions to the provisions of this article as listed above do not exempt any event from other permits that may be needed according to Milwaukie's Ordinance or other applicable law.

11.04.050 Temporary Event Permit Application Submission Requirements

- a. A person desiring to hold a Temporary Event shall apply for a Temporary Event Permit by filing with the City Manager or his designee a written application upon a form provided for that purpose. The deadline for the submittal of a Temporary Event Permit Application to hold a Special Event or a Sales Event is thirty (30) days prior to the start of the Special Event or Sales Event. The deadline for submittal of a Temporary Event Permit Application to hold a Block Party is no less than seven (7) days prior to the start of the Block Party.
- b. Only Temporary Event Permit Applications that are submitted at least two (2) months prior to the start of the Temporary Event will be eligible for appeal before City Council as described in Chapter 11.32.

Section 11.04.060 Application Process & Approval Criteria

- a. Upon receipt of the completed Temporary Event Permit Application the City Manager or his designee shall forward a copy of the application to various City departments and other organizations who shall review the application and return it, with any comments, to the City Manager within five (5) working days of receipt. The City Manager or his designee may solicit comments from affected Neighborhood District Associations and immediate neighbors of the proposed event at this time and may require the submission of additional information by the applicant.
- b. The City Manager or his designee shall issue, issue with conditions, or deny the Temporary Event Permit based on the standards of this chapter. A Temporary Event Permit to hold a Special Event will be issued for a period not to exceed fourteen (14) consecutive days.
- c. The following criteria must be met before a Temporary Event Permit is issued:
 - i. **Structure.** All temporary structures shall be removed within five (5) days of the termination of authorized operation, leaving the site in the same condition as it was prior to the placement of the temporary use. All structures shall also fulfill Milwaukie Building Code and all Fire Safety Regulations of Clackamas County Fire District #1
 - ii. **Access and Circulation.** Provisions for access and circulation shall be reviewed and approved by the Community Development and Public Works Department and, as required, the following: Clackamas County, the Oregon Department of Transportation (ODOT), and Milwaukie Police Department.

ATTACHMENT A

- iii. **Setbacks.** Setback requirements of the underlying zone shall apply to temporary structures.
- iv. **Parking.** Temporary events and structures in parking lots shall not displace or occupy required parking by more than ten (10) percent of the parking spaces.
- v. **Noise.** Noise levels generated shall not be in excess of levels allowable in the zone that the temporary use is located within unless a noise variance has been approved by the Milwaukie Police Department.
- vi. **Hours of Operation.** Temporary events or structures used for the processing and/or sale of commodities shall maintain business hours that are not disruptive to the normal use of adjacent residential properties consistent with Milwaukie's Noise Ordinance, unless a noise variance is granted by the Milwaukie Police Department. Block Parties may not be held before 7:00am or after 10:00pm.
- vii. **Fumes, odors, and dust.** Temporary events that create noxious fumes, offensive odors, or excessive amounts of airborne dust shall not be permitted or shall be required to meet applicable state standards regarding the control of such nuisances.
- viii. **Traffic.** A traffic management plan shall be required for events expected to impact surrounding properties. Permits shall be denied if the traffic management plan does not adequately address potential traffic impacts.
- ix. **Hazardous Activities.**
 - 1. The use of any pyrotechnic devices shall be prohibited on or in all City-owned property unless specifically approved in writing by a CCFD #1 Fire Marshall and Milwaukie's Chief of Police or his/her designee.
 - 2. Gun shows at which gun sales are to occur shall have all firearms, including antique firearms made inoperable through the use of locks, "zip ties" or other devices to prevent the firearm from being loaded or discharged at the gun show. Sales by licensed firearms dealers may be permitted if permitted by the applicant. Sales by person who have not been issued a valid Federal Firearms License shall not be permitted on City property.
- x. **Signage.** All event signs shall comply with Milwaukie's Sign Code (Title 14).
- xi. **Health Standards.** All events must comply with the FDA Food Code and all other applicable standards as set forth by the Public Health Division of Clackamas County.
- xii. **Other permit requirements.** The City may require proper insurance, indemnification, and hold harmless agreements as described in Chapter 11.24. Building permits, electrical permits, food establishment permits, alcoholic beverage licenses, permits to use parks, permits needed for impacts to county streets or roads, permits needed for impacts to state owned streets or roads and all other permits required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Temporary Events must be applied for separately in accordance with the application ordinance or law. No alcoholic beverages shall be permitted for

ATTACHMENT A

sale or consumption at a Temporary Event without first obtaining a liquor license from the Oregon Liquor Control Commission.

11.04.070 Permit Fees and Deposits

- a. The City Manager may establish fees as needed. Depending on the nature of the event, the City Manager may require fees to be paid prior to the issuance of a permit. The City Manager shall take into account the amount of staff time potentially involved with the event and potential for damage to any public property, including inadvertent damage. The City Manager may use the established fee list for the City, or other reasonable means to arrive at any required fees.
- b. The City Manager may require reimbursable deposits. Depending upon the type of event, the City Manager may require a deposit prior to issuing a permit.

11.04.080 Indemnification and Insurance Requirements

- a. An applicant for a Temporary Event Permit must execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the Temporary Event.
- b. An applicant for a Temporary Event Permit must have general liability and property damage insurance that protects the sponsor, the City, and the City's officers, agents, and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from the activities covered in the permits. Types of insurance that must be carried include Commercial General Liability, including Products & Completed Operations Liability, Auto Liability if applicable, Liquor Liability if applicable and Professional Liability if applicable. A certificate of insurance evidencing these requirements including an endorsement naming the City, and the City's officers, agents and employees as an additional insured must be presented to the City 5 days prior to the event. Failure to provide such evidence will result in the delay or denial of an application. The insurance shall provide coverage for personal injury to each person, coverage for each occurrence involving property damages; or a single limit policy covering all claims per occurrence. The limits of the insurance shall be no less than the following and are subject to review by the City Manager.

Coverage	Limit
General Aggregate	1,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	50,000
Medical Expense (Any one person)	5,000

11.04.090 Permit Denial- The City Manager or his designee may deny a Temporary Event Permit if:

- a. a permit has been granted for another Temporary Event at the same place and time;
- b. it will occupy any part of a federal highway;
- c. it will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
- d. the applicant fails to adequately provide for the protection of participants, maintenance of public order in and around the Temporary Event location, crowd security, taking into

ATTACHMENT A

consideration the size and character of the Temporary Event, or emergency vehicle access;

- e. the applicant fails to comply with, or the proposed Temporary Event will violate a city ordinance or other applicable law;
- f. the applicant makes a false statement of material fact on an application or other permits are required;
- g. the applicant fails to provide proof that he or she possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the Temporary Event;
- h. the applicant has had a Temporary Event Permit revoked within the preceding 18 months;
- i. the applicant has committed, within the preceding 18 months, two or more violations of a condition or provision of a Temporary Event Permit or this article;
- j. the applicant fails to pay any outstanding reimbursable costs owed to the city for a past Temporary Event;
- k. or the applicant fails to submit the required deposit and/or fails to agree in writing to reimburse the city for the estimated costs for the proposed Temporary Event.

11.04.100 Permit Revocation - The City Manager or his designee may revoke a Temporary Event Permit if:

- a. the applicant fails to comply with or the Temporary Event is in violation of a condition or provision of the Temporary Event Permit, an ordinance of the city, creates a hazardous condition, or any other applicable law; or
- b. the permit holder made a false statement of material fact on an application; or
- c. an unforeseen circumstance occurs prior to or during the event that greatly diminishes the safety and security of the proposed event. This could include, but is not limited to, inclement weather such as a snowstorm, flood, or windstorm, fire, or another catastrophic event.

11.04.110 Appeal from Denial, Revocation, or Approval of Temporary Event Permit

The decision of the City Manager may be reviewed by the City Council upon an appeal by any person who disagrees with the decision of the City Manager. Such appeal shall be filed with the City Recorder within 5 working days from the date of the decision of the City Manager or his designee. The City Recorder shall schedule a hearing of such appeal to the City Council no later than the second regular session following the filing of the written appeal and shall notify the applicant of the date and time that he or she may appear either in person or by a representative. The City Council may grant, grant with conditions, or deny a Temporary Event Permit during such an appeal.

Ample time is needed for the City Recorder to schedule an appeal to the City Council, therefore, the option to appeal a decision is forfeited should a Temporary Event Permit application be submitted less than two (2) months prior to the date of the Temporary Event.