

CITY OF STANWOOD
Stanwood, Washington

ORDINANCE NO. 1310

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, RELATING TO ZONING AND STANWOOD MUNICIPAL CODE (SMC) TITLE 17, ZONING; AMENDING SMC17.100.080 TEMPORARY USES OF SMC CHAPTER 17.80 NONRESIDENTIAL PERFORMANCE STANDARDS.

WHEREAS, a number of community and business groups desire to promote community involvement and activity by organizing special events; and

WHEREAS, existing regulations are located in various sections of the current municipal code and have not been updated recently; and

WHEREAS, the City Council has determined to consolidate regulations pertaining to special events in one section of the municipal code; and

WHEREAS, some activities that could be special events are currently regulated under zoning as temporary uses; and

WHEREAS, the City of Stanwood recognizes that there are certain instances when a temporary use or structure is needed for a limited period of time; and

WHEREAS, the City Council desires to have temporary use regulations that provide flexibility to property owners and provide reasonable requirements for public safety that benefit the general public welfare; and

WHEREAS, the Planning Commission held a pre-application meeting on Special Event Related Temporary Use and Housekeeping amendments on March 12, 2012; and

WHEREAS, the Community Development Department filed a zoning text amendment, Application LZCA 12-02, on March 16, 2012; and

WHEREAS, the City Council referred a work program for consideration of special event related municipal code and zoning regulations to the Planning Commission on March 22, 2012, and

WHEREAS, consistent with RCW 43.21C, the Responsible Official issued a Determination of Non Significance on March 22, 2012; and

WHEREAS, pursuant to RCW 36.70A.106, the City has notified the Washington

State Department of Commerce of the City's intent to adopt the proposed zoning text amendments, and

WHEREAS, the Planning Commission held a duly noticed public hearing on Application LZCA 12-02 on April 9, 2012.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. The Findings of Fact and Conclusions attached hereto as Exhibit A are hereby incorporated by this reference.

Section 2. SMC Title 17 Zoning Section 17.100.080 Temporary uses is hereby amended to read as follows:

17.100.080 Temporary uses and structures.

(1) Purpose. The city of Stanwood recognizes that there are certain instances when a temporary use is needed, ~~which is adjunct to a permanent use,~~ or which requires a temporary structure for a limited period of time. The purpose of this section is to establish provisions authorizing temporary uses and/or structures, for limited periods of time, for the uses set forth herein, and under the conditions set forth herein, when such uses are consistent with the purposes of this section.

(2) Permitted Temporary Uses. The following types of temporary uses may be authorized, subject to specific limitations in this section and such additional conditions as may be established by the ~~planning director~~ community development director or his/her designee:

(a) Contractor's office, model homes, storage yard and equipment parking and servicing on the site of an active construction project or other offices associated with an active construction project. This use may be approved as part of an active building permit for the duration of the permit without a separate temporary use permit required. Maintenance and upkeep of the building grounds shall be provided by the permit holder.

(b) Circuses, carnivals, rodeos, fairs or similar transient amusement or recreational activities. Temporary entertainment or cultural events which do not meet the definition of special events under Chapter 5.06 SMC.

(c) Indoor or outdoor art and craft shows and exhibits when operated no more than 15 days in one year.

(d) Indoor or outdoor special sales including ~~swap-meets~~ sidewalk sales, flea markets, parking lot sales, warehouse sales or similar activities, limited to locations on lots not used for residential purposes in commercial or industrial districts, and when operated not more than 30 days in the same year. ~~unless otherwise permitted by the city.~~

(e) Temporary live entertainment for a maximum of seven days.

(f) Temporary structures use of including mobile trailer units or similar portable structures used for nonresidential purposes, and located in districts where the use proposed use of the structure is a permitted use, are allowed for a maximum of 30 days with one 30 day extension.

(g) The planning community development director or designee may authorize additional temporary uses/structures not listed in this subsection when it is found that the proposed uses are in compliance with the requirements and findings conditions of subsection (3)(4) of this section.

(h) The following activities are exempt from requirements to obtain temporary use permit approval:

- i. Uses subject to the special events provisions of Chapter 5.06 SMC, when the use does not exceed a total of 14 days each calendar year, whether at the same location in the city or at different locations.
- ii. Fireworks stands, subject to the provisions of Chapter 5.04 SMC.
- iii. Garage sales. Garage sales shall occur no more than three times per calendar year and not to exceed two consecutive days at one time
- iv. Home occupations in conformance with Chapter 17.-95.380 SMC.
- v. Fundraising car washes.

(3) Duration of Temporary Uses/Structures

(a) Temporary uses approved pursuant to this section may operate 30 days from the time the temporary use is authorized by the community development director or his/her designee except for uses authorized with a different duration in Section 17.100.080(2)(a).

(b) The community development director or designee may also authorize one 30-day extension.

(c) Except for uses authorized with a different duration in Section 17.100.080(2)(a), the community development director may approve a temporary use for up to 30 non-consecutive days when the proposed use is operated intermittently and the nature of the activity and the conditions of operation meet the purpose and approval criteria in this chapter.

(3)(4) Conditions of Temporary Use.

(a) Each site occupied by a temporary building shall be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.

(b) A temporary use conducted in a parking facility shall not occupy or remove from availability more than 25 percent of the spaces required for the permanent use. ~~except those civic or special city events approved pursuant to subsection (3)(d) of this section.~~

(c) Each site occupied by a temporary use must provide or have available sufficient off-street parking and vehicular maneuvering area for customers. Such parking shall comply with the requirements of Chapter 17.105 SMC and must provide safe and efficient interior circulation and ingress and egress from the public right-of-way.

(d) ~~No temporary use shall occupy or use public rights of way, parks or other public lands in any manner unless specifically approved by the city council.~~

~~(e)-(d)~~ No temporary use shall occupy a site or operate within the city except that, when authorized by the planning community development director or his/her designee. ~~— except for live entertainment, a temporary use may operate for 30 days from the time the temporary use is authorized by the planning director or his/her designee if it is found that such will be consistent with the requirements of this chapter. The community development director or designee may also authorize one 30-day extension.~~

~~(f)(e)~~ All temporary uses shall obtain, prior to occupancy of the site, all required city permits, licenses or other approvals, e.g., business license, building permit, site development.

~~(g)-(f)~~ The planning community development director or his/her designee may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include but are not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following temporary use.

(5) Public Safety. In the event the police chief determines that a police officer should be in attendance at any temporary use, the cost to cover the salary of the extra officer shall be paid by the sponsor/promoter.

~~(46)~~ Criteria. The community development director or his/her designee may authorize the temporary uses described in subsection (2) of this section after consultation and coordination with all other applicable city departments and other agencies and only when a determination that the following criteria can be met:

(a) The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.

(b) The temporary use will not impact public health, safety or convenience, or create traffic hazards or congestion, or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.

(c) The use and associated structures will be conducted and used in a manner compatible with the surrounding area.

(d) The temporary use shall comply with all applicable standards of the Snohomish County health department.

(e) The applicable temporary use meets all requirements of Chapter 5.08 SMC.

~~(57)~~ Application/Authorization – Penalty for Violation.

(a) Application to conduct a temporary use shall be made to the community development department at least 15 days prior to the time when the applicant plans to begin the temporary use, and shall include such information as the planning director or his/her designee may require to evaluate the use and to make the determinations required by this chapter.

(b) Application shall be made prior to the requested date for commencement of the temporary use, and the planning community development director or his/her designee shall make a determination whether to approve, approve conditionally or deny the temporary use within 10 days after the date of application.

(c) Authorization of a temporary use shall be by issuance of a temporary use permit.

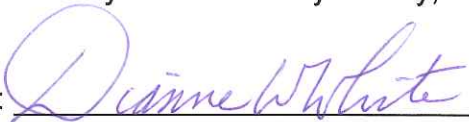
(d) A temporary use authorized pursuant to this section shall not be exempted or relieved from compliance with any other ordinance, law, permit or license applicable to such use, except where specifically noted.

(e) Failure to obtain a permit prior to moving the temporary use into place shall be considered a Class B violation, and shall result in a fine as determined by SMC Title 13.

Section 3. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 4. This Ordinance shall take effect and be in force five (5) days after its passage, approval and publication as provided by law.


PASSED by the City Council and signed by the Mayor this 24th day of May, 2012.

By: 
Dianne W. White, Mayor

Attest:

Approved as to form:

By: 
Melissa A. Collins, City Clerk

By: 
Grant K. Weed, City Attorney

FINDINGS OF FACT AND CONCLUSIONS

Findings of Fact:

1. The Planning Commission held a pre-application meeting on Special Event Related Temporary Use and Housekeeping amendments on March 12, 2012.
2. The Community Development Department filed a zoning text amendment, Application LZCA 12-02, on March 16, 2012.
3. Consistent with RCW 43.21C, the Responsible Official issued a Determination of Non Significance March 22, 2012.
4. Pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed zoning text amendments.
5. The Planning Commission held a duly noticed public hearing on Application LZCA 12-02 on April 9, 2012.
6. On May 10, 2012 at its regularly scheduled City Council meeting, which was open to the public, after review of the applications, staff reports, and Planning Commission recommendations and after consideration of the public testimony submitted at or as part of the public hearing, the City Council held first and second reading of Ordinance No. 1310, adopting amendments to SMC 17.100.080, temporary use regulations of SMC Chapter 17.80 Nonresidential Performance Standards.
7. The decision criteria for amending SMC Title 17 Zoning Code are the following (SMC 17.155.090 (2)):
 - a. *The purpose and desired effect of the proposed zoning code amendment are consistent with the Stanwood Municipal Code.* The proposed zoning text amendments would clarify standards for temporary uses and eliminate conflicts between the proposed special events regulations and requirements for temporary use permits. The proposed amendments make regulations for temporary uses more consistent with other sections of the municipal code, and provide clearer policy for allowing various short term uses on a temporary basis.
 - b. *There is a positive relationship to the public health, safety and welfare of the community.* The temporary use regulations provide for uses needed to support construction in the city, and provide for occasional uses including business sales, temporary cultural events and similar activities needed by residents, property owners, and businesses that do not qualify under the special events regulations. These measures add to the quality of life of residents and promote business success and in this way contribute to the public health safety and welfare.
 - c. The proposed amendment is *consistent with the Stanwood Comprehensive Plan.* The amendment implements the following policies by providing efficient permitting procedures. The Economic Development Element includes the following policies that will be implemented by improved temporary use permit regulations.

EDG-6 - Support local business by providing up to date information and equitable and efficient licensing permitting procedures.

EDP-6.1 - Ensure that City licensing and permitting procedures and development regulations are coherent, fair, and expeditious.

Conclusions/Decision:

Based upon the entire record in this matter, which shall be incorporated by this reference, the Stanwood City Council adopts the following conclusions and decisions.

1. Delete the requirement for temporary uses on public property to be reviewed by the City Council.
2. Delete references to "*Circuses, carnivals, rodeos, fairs or similar transient amusement or recreation, "swap meets" and "flea markets"*."
3. Provide a temporary use permit process for "*Temporary entertainment or cultural events and "Indoor or outdoor art and craft shows and exhibits.*"
4. Add model homes as temporary uses.

5. Clarify that contractor's office, storage yard, and equipment parking and servicing on construction site are allowed as part of an active building permit without a temporary use permit.
6. Clarify that "*sidewalk sales*" are a type of indoor or outdoor special sales.
7. Clarify that temporary structures, including mobile trailer units are allowed for 30 days with one 30 day extension.
8. Provide that temporary uses may be approved for up to 30 non-consecutive days for the kinds of activities that occur a few days at a time throughout the year.
9. Provide a new section allowing the police chief to determine if an officer is needed at a temporary use activity, and allowing the city to charge the cost of the officer to the sponsor/promoter.