

# DCA2009-00004

## CODE AMENDMENT

### Explanation of Formatting

This text amendment employs the following formatting:

**[Bold/Underlined]** – Text to be added

**[Bold/Double-Underline]** – Text that will be underlined upon codification

~~[Strikethrough]~~ – Text to be removed

### Chapter 18.785 TEMPORARY USES

#### Sections:

- 18.785.010 Purpose
- 18.785.020 Types of Temporary Uses
- 18.785.030 Approval Process
- 18.785.040 Approval Criteria
- 18.785.050 Application Submission Requirements

#### 18.785.010 Purpose

- A. Purpose. The purpose of this chapter is to establish standards for the approval of three types of temporary use:
  - 1. Use that is seasonal or directed toward a specific event;
  - 2. Use which is occasioned by an unforeseen event; and
  - 3. Sales offices and model homes in conjunction with the sale of homes.
- B. Disclaimer. This chapter is not intended to be a way to circumvent the strict application of the use districts. Therefore, time limits are to be strictly enforced. This chapter **does not apply to businesses seeking a temporary or interim location.** ~~is not intended to apply to garage sales.~~
- C. Exemptions. This chapter does not apply to **1) seasonal and special events conducted by and totally for the benefit of a Tigard-based nonprofit organization, 2) garage sales, or 3) temporary construction offices in conjunction with the initial development of residential, commercial or industrial property (three or more dwelling units or lots).**

#### 18.785.020 Types of Temporary Uses

- A. Seasonal or special event. This type of temporary use ~~is a use which~~ by its nature ~~will last~~ less than one year **and** ~~Examples of this type of use are those~~ **is** associated with the sale of goods for a specific holiday, activity, or celebration; **seasonal use; or** uses associated with construction. ~~or seasonal use. This type of use does not apply to businesses seeking a temporary or interim location.~~ Examples of this type of temporary use include:

##### **1. Festivals, celebrations, or special events;**

~~12. Use associated with t~~The celebration of a specific holiday such as the sale of Christmas trees and fireworks;

~~2.3. Use associated with~~ **Seasonal markets, by a chartered public service/non-profit organization, for the sale of farm products such as fresh fruits and vegetables, produce, and flowers, and animal products;**

~~3. Use associated with festivals or celebrations or special events;~~

~~4. Seasonal activities such as t~~The sale of food **associated with seasonal activities such as at sporting events or activities and seasonal markets;**

~~56. Use associated with e~~Construction such as the storage of equipment during the construction of roads or development, but not a temporary sales office or model home as provided by Section 18.785; and

~~65. Temporary fund raising and other civic activities in commercial zoning districts.~~

#### **18.785.030 Approval Process**

A. Procedure type. Approval of various temporary uses shall be processed as follows:

1. Seasonal or special event: by means of a Type I procedure, as governed by Section 18.390.040, using approval criteria in Section 18.785.040A;
2. Unforeseen/emergency situations: by means of a Type I procedure, as governed by Section 18.390.040, using approval criteria in Sections 18.785.040B;
3. Temporary sales office/model home: by means of a Type I procedure, as governed by Section 18.390.030, using approval criteria in Sections 18.785.040C;
4. Temporary building in commercial and industrial zones: by means of a Type I procedure, as governed by Section 18.390.040, using approval criteria in Sections 18.785.040D.

B. Effective Approval period. An approval for a temporary use by the Director shall be ~~effective~~ **valid** for a period of one year unless otherwise stipulated by the approval.

C. Lapsing of approval. An approval for the temporary use by the Director shall lapse if:

1. Substantial construction of the approved plan or onset of the approved activity has not begun within the approval period; and
2. Construction or activity on the site is a departure from the approved plan.

D. Renewal of approval. A temporary use approval may be renewed once by the Director for a period not to exceed one year. Notice of the decision shall be provided to the applicant.

**E. Renewal for seasonal markets. A permit for seasonal markets may be renewed on an annual basis in the same manner as if it were an original application.**

EF. Renewal for temporary residential sales office/model homes. A permit for temporary sales offices and model homes may be renewed on an annual basis in the same manner as if it were an original application as long as 50% or less of the total number of dwelling units have been issued occupancy permits.

#### **18.785.040 Approval Criteria**

- A. Seasonal and special events. Using a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions or deny based on findings that all of the following criteria are satisfied:
1. The use occurs only once in a calendar year and for no longer a period than 30 **consecutive** days; **Seasonal markets may operate on weekend days from May through October;**
  2. The use is permitted in the underlying zoning district. **Seasonal markets are permitted in the C-G and MU-CBD zones;**
  3. The applicant has proof of the property-owner's permission to place the use on his/her property;
  4. There will be no parking utilized by the customers and employees of the temporary use which is needed by the property owner to meet his/her minimum parking requirement, as governed by Chapter 18.765, Parking and Loading.
  5. The use will provide adequate vision clearance, as governed by Chapter 18.795, Vision Clearance, and shall not obstruct pedestrian access on public rights-of-way.
  6. **Adequate and safe ingress and egress exist when combined with the other uses of the property, with a demonstration that the applicable standards of Chapter 18.705, Access, Egress and Circulation are met;**
  7. **The use will not create a traffic hazard as documented in a traffic study and through ODOT review, if applicable;**
  8. **The use will not create adverse off-site impacts as demonstrated with specific documentation related to noise, odors, vibrations, glare or lights that would be greater than otherwise allowed by uses permitted outright in the zone; and**
  9. **Signs are allowed as permitted in Chapter 18.780; duration may correspond to the permitted temporary use.**