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CODIFIED
BY QMA Date 4/1/05

ORDINANCE NO. 1870

(An ordinance amending Chapter 5.07 and 10.60 of the Hood River Municipal Code]

WHEREAS, Chapter 5.07 of the Hood River Municipal Code requires special events and transient merchants to obtain permits from the City;

WHEREAS, Chapter 10.60 of the Hood River Municipal Code requires parades to obtain permits from the City;

WHEREAS, both chapters are in need of revisions regarding permit issuance and conditions of approval; and

WHEREAS, the revisions should go into effect immediately because the special event, transient merchant and parade season is imminent.

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

I. Chapter 5.07 of the Hood River Municipal Code is amended to read as follows (changes are shown in underline and deletions in strike-out):

CHAPTER 5.07 - TRANSIENT MERCHANTS AND SPECIAL EVENTS

Sections:

- 5.07.010 Title.
- 5.07.020 Purpose and Scope.
- 5.07.030 Definitions.
- 5.07.040 License -- Required -- Fees.
- 5.07.050 License -- Application -- Standards and Limitations.
- 5.08.060 Application Process -- Issuance -- ~~Inspections~~ -- Appeal.
- 5.07.070 Display of License.
- 5.07.080 Removal of Structures.
- 5.07.090 Penalty -- Hold Harmless and Indemnification.
- ~~5.07.100 Standby Fire and Emergency Medical Watch for Special Events.~~

5.07.010 Title. The provisions of this chapter are intended to authorize and regulate transient vending and special events on all property within the City of Hood River. To that purpose, there is added to the Hood River Municipal Code Chapter 5.07 entitled "Transient Merchants and Special Events," and those sections and subsections set forth below.

5.07.020 Purpose and Scope.

A. This ordinance provides reasonable and necessary regulations for the licensing of transient merchants and special events in order to:

1. Protect the public health and safety;
2. Maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public;
3. Prevent interference with the peaceful enjoyment of the areas near places where the transient vending activity or special event is occurring; and
4. Preserve, protect and enhance the economic, scenic, historic and aesthetic values and objectives of the city.

B. The regulations of this code are not intended to permit any violation of the provisions of any other law or regulation.

C. These regulations shall apply to activities on city-owned and leased property.

D. These regulations shall not apply to garage sales, yard sales, rummage sales or swap meets conducted on private property, provided that the sale is not conducted over a period in excess of 4 consecutive days or more often than 3 times per calendar year.

E. These regulations shall not apply to sales conducted by municipal, government, religious, charitable, educational or other similar organizations, provided that the sale is conducted on premises owned or leased by the applicant for the regular conduct of its business or affairs.

F. These regulations shall not apply to temporary or seasonal uses within permanent structures, except for those activities within permanent structures subject to regulation as a special event.

G. Regulation of special events shall not apply to private parties or to events taking place within a permanent structure having a current on-premise license from the Oregon Liquor Control Commission.

H. Exemption of a use from the provisions of this chapter shall not exempt the use from other applicable provisions of this Code.

5.07.030 Definitions. The following definitions shall apply to this chapter:

"Dance" includes a dance which is open to the public, or for which admission is charged directly or indirectly.

"Person" includes the singular and plural and any individual, firm, corporation, association, club, co-partnership or society or any other organization.

“Special event” includes any activity which is likely to attract at any one time an assembly of persons, conducted for a specified period at one or more locations within the City under the auspices of and subject to the supervision and direction of a single person, including but not limited to festivals, fairs, shows, exhibitions, auctions, city or regional celebrations, athletic events, and public dances.

"Transient merchant" includes any person who offers food, beverages, produce, merchandise, a service, or other thing of value for sale within the city on a temporary or seasonal basis. The following classes of transient merchants are hereby established:

1. Class 1: A transient merchant requiring direct connection to City-operated utilities for the preparation or storage of that which is being offered for sale. "Utilities" includes water, storm sewer or sanitary sewer. A license to a Class 1 transient merchant is issued for a single period per calendar year, not to exceed 180 consecutive days, with no renewals or extensions.
2. Class 2: A transient merchant not requiring direct connection to City-operated utilities for the preparation or storage of that which is being offered for sale. A license to a Class 2 transient merchant is issued for a period of 30 consecutive days, with a maximum of 5 renewals per calendar year (maximum 180 days).

“Waterfront” includes that area in the City located north of Interstate 84, west of the Hood River, and east of Wells Island.

5.07.040 License -- Required -- Fee. No person shall engage in business as a transient merchant or conduct a special event within the ~~corporate limits of the city~~ without first obtaining a license as provided in this chapter. No person shall be deemed to be exempt from the application of this chapter by reason of that person having conducted business within the City prior to the effective date of this ordinance. The ~~applicable~~ license fees shall be set by resolution of the city council. The fees shall be payable in full at the time of submission of an application and shall be non-refundable. No license shall be assignable or transferable or shall authorize the applicant to conduct any other type of business or special event.

5.07.050 License -- Application – Standards and Limitations. An applicant for a license under this chapter must file an application in writing. The city recorder shall provide the application, on a form and establish written procedures and submittal requirements necessary to process the application in accordance with this Chapter be furnished by the city recorder. The application will be reviewed to determine compliance with the following standards and limitations:

A. ~~Application for~~ Transient Merchant License.

1. The proposed use must meet the definition of “transient merchant” and be subject to classification as set out in Section 5.07.030. Any use not meeting the definition of “transient merchant” or subject to classification shall be deemed to be a use subject to review under chapter 17.03.050.

2. Transient merchants shall not be permitted in the R-1, R-2 or R-3 zones. Written permission of the property owner for the proposed use shall be required. No encroachment upon city rights-of-way shall be permitted.

3. Each license shall be issued for a single fixed location, and no transient merchant shall change location except upon a permitted license renewal; provided, however, that the Waterfront shall be considered one location for purposes of this section, and movement within the Waterfront shall be subject to regulation by the Port of Hood River or its designee.

4. No transient merchant who is a food vendor shall be permitted to provide tables or seating for the use of patrons. A table for condiments will be permitted.

B. ~~Application for~~ Special Event License

1. The proposed use must meet the definition of “special event.”

2. A special event license is issued to the sponsor of the special event.

3. The license shall be limited to the duration of the special event, not to exceed 15 days.

4. The application ~~must~~ may be ~~denied if not~~ submitted 30 days prior to the first day of the special event. An application submitted after the deadline will be considered if accompanied by a late fee and submitted no later than 14 business days prior to the first day of the special event. If the 30th day falls on a day when the City administrative offices are closed, the application will be considered if it is received by the City on the next business day.

5. The Chief of Police shall have the authority and discretion to set general policy for security and safety for special events and to determine the specific security and safety requirements for an individual special event.

~~[This section moved to subsection (C)(6)] 6. The Fire Marshal shall have discretion to set general policy for fire safety inspections, and to require a fire safety inspection for any individual transient merchant or special event, and to charge a fee to be set by council resolution.~~

~~[This section moved to subsection (C)(5)] 7. The Building Official shall have discretion to require a structural inspection for any temporary structure, and to charge a fee to be set by council resolution.~~

C. All licenses ~~applications under this chapter~~ shall also comply with the following:

~~[This section moved to 5.07.040] 1. No person shall be deemed to be exempt from the application of this chapter by reason of that person having conducted business within the City prior to the effective date of this ordinance.~~

~~2. Applicants~~ All licenses must comply with all applicable state and local laws, including but not limited to regulations and standards imposed or enforced by the Hood River County Sanitarian and the Hood River Municipal Code.

2. All waste shall be disposed of in compliance with all city, county and state standards, and may not be poured into storm sewers or onto the ground. Adequate trash receptacles must be provided in accordance with the terms of the license.

3. No use will be permitted:

- a. Within the required landscape or setback area of the property;
- b. That ~~which~~ blocks vision at street intersections;
- c. That ~~which~~ blocks a crosswalk or otherwise impedes the flow of pedestrian traffic;
- d. That ~~which~~ blocks entrances or exits from buildings;
- e. That ~~which~~ blocks a driveway or otherwise impedes the flow of vehicular traffic;
- f. Within 10 feet of any disabled parking space or access ramp;
- g. Within 50 feet of any entrance or driveway to a health care facility with an emergency or urgent care facility, school, or police or fire station;
- h. Within any service drive of a parking lot; or
- i. In a location that ~~which~~ conflicts with any fire or safety code regulations.

4. The city recorder may impose conditions of approval on the license that are necessary to comply with the requirements of the license and this chapter. In determining whether to grant or deny a license, or in setting any conditions of approval ~~upon the granting of a license~~, the city recorder shall consider:

- a. The need to maintain the free flow of pedestrian and vehicular traffic on streets, sidewalks and areas open to the public;
- b. Criminal history of the applicant or event sponsor;
- c. Any documented history of problems with an applicant or event previously held;
- d. Suitability of the premises for the type of activity applied for; and
- e. Compliance with all applicable local and state laws, ordinances and regulations, and the standards set forth in this section.

5. The conditions applicable to a license may include the right of the city or the County Sanitarian to a post-licensing inspection of the licensee's business premises to insure compliance with appropriate structural, mechanical, fire, health and/or safety regulations or concerns. Inspections may also be conducted from time to time during the course of the license period, as deemed necessary by the city or the County Sanitarian. If the licensee fails, within the specified time, or if no time is specified, a reasonable time, to remedy any non-complying practice or defective condition identified as a result of any inspection, the licensee's license shall be revoked, without refund.

6. The Fire Marshal shall have the authority and discretion to set general policy for fire safety, including inspections, and to determine the specific fire safety requirements and require a fire safety inspection for any individual transient merchant or special event, ~~and to charge a fee to be set by council resolution.~~ Whenever in the opinion of the Fire Marshal it is necessary for public safety at a special event, the Fire Marshal may require the special event licensee to contract with the City for standby fire and emergency medical watch through the City's Fire Department. The licensee shall be responsible for paying the City's fee for such coverage and the licensee shall execute a contract for the services as a condition to receiving the special event license.

7. The Building Official shall have the authority and discretion to require a structural inspections for any temporary structure, ~~and to charge a fee to be set by council resolution.~~

8. All licensees for use of City-owned property, including rights-of-way, shall be required to furnish evidence of liability insurance providing primary coverage in an amount that is not less than the City's tort liability limits established by the Oregon Legislature naming the City as an additional insured. The liability insurance shall apply to, and provide coverage for, any and all claims for bodily injury and property damage arising from or caused by the use for which the license is granted and shall be primary coverage. In lieu of meeting the insurance requirements of this section, any governmental entity may enter into an agreement with the City to indemnify and hold the City harmless in the event of any damage or injury resulting from the use.

5.07.060 Application Process -- Issuance -- Inspections -- Appeal.

A. Application Process. Upon receipt of a completed application and fee, the city recorder shall refer the application to the appropriate city departments for review and, if applicable, to the County Sanitarian.

B. Issuance. The city recorder shall issue a license if the city recorder finds that the application has been approved by the appropriate departments, or can meet approval through appropriate conditions.

~~[This section moved to 5.07.050(C)(5)]C. Inspections. The conditions applicable to a license may include the right of the city or the County Sanitarian to a post-licensing inspection of the licensee's business premises to insure compliance with appropriate structural, mechanical, fire, health and/or safety regulations or concerns. Inspections may also be conducted from time to time during the course of the license period, as deemed necessary by the city or the county sanitarian. If the licensee fails, within a reasonable time, to remedy any non-complying practice or defective condition identified as a result of any inspection, the licensee's license shall be revoked, without refund.~~

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~~D~~. Appeal. Any person whose application for a license has been denied, whose license has been issued subject to conditions, who disagrees with the transient merchant class assigned to the application, or whose license has been subsequently revoked, may appeal the decision to the city manager ~~city council~~. The city manager's decision may be appealed to the city council. The appeals shall be filed within five (5) days of the date of the decision from which the appeal is being made and shall be filed with the city recorder. ; provided, however, that ~~N~~o business shall be conducted during the pendency of the appeal. The fee for an appeals shall be set by council resolution. The council shall schedule a hearing date that shall not be later than the second regular session following the filing of the written appeal with the city recorder, and shall notify the applicant of the date and time that the applicant may appear either in person or by a representative.

5.07.070 Display of License. The licensee shall display the license, together with any conditions, at all times on the business premises, in a location visible to customers.

5.07.080 Removal of Structures. Any structures, carts, vending units, tents, tables or other appurtenances used by the licensee may not be located or relocated on the property until commencement of the license term, and shall be removed from the property promptly upon expiration of the license term.

5.07.090 Penalty -- Hold Harmless and Indemnification. Any person who violates or causes a violation of any provision of this chapter shall be subject to punishment as prescribed in Chapter 1.12 of the Hood River Municipal code. Upon any violation the City Manager, or a designee of the City Manager, may order the licensed activity to cease, and upon receipt of written notice, the activity shall immediately cease. Any such persons and licensees shall indemnify and hold the city and its officers, agents and employees harmless from and against all claims for injury, loss or damage arising out of or in any way related to the operation of licensee's business. This agreement to indemnify or defend shall survive termination or revocation of licensee's license.

[This section moved to 5.07.050(C)(6)] ~~5.07.100 Standby Fire and Emergency Medical Watch for Special Events.~~ ~~Whenever in the opinion of the Fire Chief, or their designee, it is necessary for public safety at a special event, the Fire Chief, or their designee, may require the special event licensee to contract with the City for standby fire and emergency medical watch through the City's Fire Department. The licensee shall be responsible for paying the City's fee for such coverage and the licensee shall execute a contract for the services as a condition to receiving the special event license.~~

II. Chapter 10.60 of the Hood River Municipal Code is amended to read as follows (changes are shown in underline and deletions in strike-out):

CHAPTER 10.60 - FUNERAL PROCESSIONS AND PARADES

Sections:

- 10.60.010 Funeral procession regulations
- 10.60.020 Parades--Permit required when
- 10.60.030 Parade permit--Application--Issuance
- 10.60.040 Parade permit--Appeal procedure
- 10.60.050 Parade permit—Revocation
- 10.60.060 Offenses against parade

10.60.010 Funeral procession regulations.

- A. A permit shall not be required to conduct a funeral procession.
- B. The procession shall proceed to the place of interment by the most direct route which is both legal and practicable.
- C. The procession shall be accompanied by adequate escort vehicles for traffic-control purposes.
- D. All motor vehicles in the procession shall be operated with their lights turned on.
- E. No person shall unreasonably interfere with a funeral procession.
- F. No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession. (Ord. 1280 §52, 1970).

10.60.020 Parades--Permit required when. No person shall organize or participate in a parade which may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people utilizing the public right-of-way and consisting of one hundred or more persons or twenty or more vehicles. (Ord. 1280 §53, 1970).

10.60.030 Parade permit--Application--Issuance.

A. Application for parade permits shall be made to the city recorder manager at least forty-five days prior to the intended date of the parade, unless the time is waived by the city recorder ~~him~~.

B. Applications shall include the following information:

1. The name and address of the person responsible for the proposed parade;
2. The date of the proposed parade;
3. The desired route, including assembling points;

4. The number of persons, vehicles and animals which will be participating in the parade;
5. The proposed starting and ending time;
6. The application shall be signed by the person designated as chairman.

C. If the city ~~recorder manager~~, upon receipt of the application, determines that the parade can be conducted without endangering public safety and without seriously inconveniencing the general public, the city recorder ~~he~~ shall approve the route and issue the permit.

D. If the city ~~recorder manager~~ determines that the parade cannot be conducted without endangering public safety or seriously inconveniencing the general public, the city recorder ~~he~~ may:

1. Propose an alternate route;
2. Propose an alternate date;
3. Impose conditions of approval of the permit; or
- ~~4.~~ Refuse to issue a parade permit.

E. The city ~~recorder manager~~ shall provide a written decision approving, approving with conditions, or denying the application ~~notify the applicant of his decision~~ within five days of receipt of the application.

~~—F. If the city manager proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal his decision to the city council. (Ord. 1280 §54, 1970).~~

10.60.040 Parade permit--Appeal procedure.

A. An applicant may appeal the decision of the city recorder to the city manager by filing a written ~~request of appeal with the city manager within five days after the city manager has proposed alternatives or refused to issue a permit.~~ The city manager's decision may be appealed to the city council. The appeals shall be filed within five (5) days of the date of the decision from which the appeal is being made and shall be filed with the city recorder. The parade may not take place during the pendency of the appeal. The fee for appeals shall be set by council resolution.

B. The council shall schedule a hearing date which shall not be later than the second regular session following the filing of the written appeal with the city recorder, and shall notify the applicant of the date and time that he may appear either in person or by a representative. (Ord. 1280 §55, 1970).

10.60.050 Parade permit--Revocation. The city manager may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety. (Ord. 1280 §57, 1970).

10.60.060 Offenses against parade.

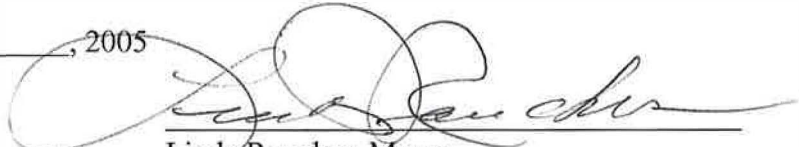
A. No person shall unreasonably interfere with a parade or parade participant.

B. No person shall operate a vehicle that is not of a parade between the vehicles or persons comprising a parade. (Ord. 1280 §56, 1970).

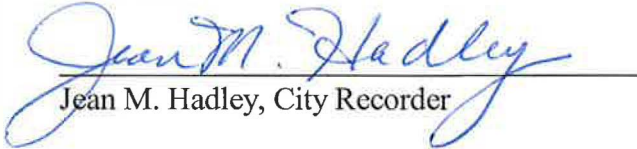
Read for the first time: March 14, 2005.

Read for the second time and passed: March 28, 2005, to become effective immediately.

Signed March 31, 2005


Linda Rouches, Mayor

ATTEST:


Jean M. Hadley, City Recorder

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BY gmk CODIFIED
Date 4-1-05