Code draft for temporary uses, including transient businesses and mobile food units.

**Definitions to be added to MC155.075:**

Mobile food unit: Any device, propelled or powered by any means, that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

Transient business: A business that operates in the city and has no fixed permanent location from which the business is conducted. Occupation of the location for 45 consecutive days constitutes a permanent location. “Transient business” does not include service work where the operator drives to a particular premises in order to perform a specific service; examples include but are not limited to landscapers, yard maintenance workers, plumbers, etc.

**MC155.xxx. Temporary Uses**

Temporary uses are characterized by their short-term nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, mobile food units, parking lot sales, retail warehouse sales, seasonal sales such as Christmas tree sales and vegetable stands, and similar uses. This Code contains permit procedures for three types of temporary uses: Special Events; Temporary Sales Offices; and Temporary Buildings, Trailers, Kiosks, and Other Structures, as follows:

A. Special Events. The City Manager shall approve, approve with conditions, or deny an application for a Special Event Permit, based on the following criteria:

1. Special Event Permit required. Any temporary use that involves any of the following shall require a Special Event Permit:
	1. A gathering of 150 or more people, located in whole or in part on public property or a public right-of-way; or
	2. Food is being prepared and served for consumption on public property; or
	3. Alcohol will be served on public property; or
	4. Tents or canopies exceeding 750 cumulative square feet will be erected; or
	5. Fencing or traffic control will be required on public streets or public property; or
	6. Signs, certified flagger or police are needed to control or direct traffic; or
	7. A stage or similar structure is to be built on or delivered to a site on public property.
2. Duration/frequency. The Special Event does not occur for more than 45 cumulative days per calendar year.
3. Permit application.
	1. A complete application and payment of event permit fee has been received by the City no less than 90 days prior to the beginning of the event.
	2. The applicant, if different than the property owner, must provide proof of the owner's permission to place the use on the property with the application.
	3. Application must be accompanied by information sufficient to insure that the event is compliant with permitting requirements at the time of application.
	4. The City Manager shall issue a decision on any special event application, that fully satisfies the conditions (a) through (c) above, within 30 days of receipt.

4. Ingress and egress. Ingress and egress conform to the requirements of MC155.260.

5. Visual clearance. Use does not violate visual clearance codes. (MC155.052)

6. Parking. There is sufficient parking to accommodate the temporary use and other uses existing on the site.

7. Off-site impacts. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.

8. Sanitation.

a. The use is adequately served by sewer or septic system and water, as applicable.

b. Restroom and hand washing facilities are sufficient.

c. Trash receptacles and disposal are sufficient and do not involve the use of City waste receptacles.

d. Resources and plan for post-event site clean-up are adequate. The City Manager may elect to require that the event organizer post a bond to insure post-event site clean-up is completed.

9. Licensing. The applicant shall be responsible for acquiring and maintaining all required licenses and permits.

10. Mitigation of liability/insurance. If the event is jointly or partially sponsored by the City of Lakeside, this requirement to obtain insurance shall be imposed at the discretion of the City Manager. The applicant shall:

a. Enter into a hold-harmless agreement with the City of Lakeside.

b. Obtain Comprehensive General Liability for the event, with limits of not less than $1 million and listing the City of Lakeside as an additional insured.

11. Appeals. Any appeal of a decision by the City Manager with respect to an application for a special event permit shall be made to the City Council.

B. Temporary Sales Office for subdivisions. The City Manager shall approve, approve with conditions, or deny a temporary use application for a Temporary Sales Office for the purpose of facilitating the sale of real property within the City. The use of any real property within the City as a temporary sales office shall meet all of the following criteria:

1. Location. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold.
2. Allowed permanent structures. The property to be used for a temporary sales office shall not be permanently improved for that purpose, unless the building used as a temporary sales office also serves as a model home designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.
3. Utilities. Public health, safety, and welfare shall be protected through conditions imposed by the City, regarding temporary utility connections.

C. Temporary Buildings, Trailers, Kiosks, Mobile Food Units and Other Structures. Unless part of a Special Event that has received a permit from the City, the City Manager shall approve, approve with conditions, or deny an application for a placement and use of a temporary building, trailer, kiosk, mobile food unit or other structure, based on following criteria:

1. Location. A temporary building, trailer, kiosk, mobile food unit or other structure may be located:
	1. In zones where the building or use would be allowed as a permitted use; or
	2. In zones where the building or use would be allowed as a conditionally permitted use, and such conditional use permit has been obtained; or
	3. In non-residential zones, where the building or use would not be allowed as a permitted or conditionally permitted use, for no more than 3 hours]; or
	4. In residential zones as long as the stay in one location is no more than 15 minutes.
2. Siting requirements.
	1. The location shall not be within a sidewalk.
	2. The location shall not be within 20 feet of an intersection.
	3. The location of any transient business shall not be within 10 feet of the entrance of any permanent business, unless the temporary structure is being placed with the permission of the owner of that permanent business.
	4. The location of any transient business shall not be within 50 feet of the entrance of any competing permanent business.
	5. Siting on public property is permitted only during, and as part of, a permitted special event.

3. Property owner authorization. The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.

4. Lot standards. The lot development standards of the underlying zone are met.

5. Ingress and egress. Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to MC155.260.

6. Visual clearance. The use does not conflict (i.e., create a nonconformity) with the provisions of MC155.052 (Visual Clearance).

7. Parking. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to MC155.250-.256 (Off-Street Parking Requirements).

8. Drive-through service. The use shall not utilize drive-through service. Only pedestrian (walk-up) traffic is allowed.

9. Off-site impacts. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.

10. Utilities.

a. The use is adequately served by sewer or septic system, water, and electricity, as applicable.

b. Utilities can be connected temporarily to such service without the placement of lines, wires, pipes, hoses or similar temporary utility connection infrastructure across a sidewalk or similar designated pedestrian walkway.

The use of internal combustion engine electrical generators is not permitted, other than those that are an integral component of a mobile food unit (as required by OAR 333-162-0020(5)).

11. Maintenance of walkways. Use on or adjacent to a sidewalk or other designated pedestrian way shall maintain at all times a minimum unobstructed pedestrian passage area of 36 inches, and avoid creating safety hazards for pedestrians and vehicles.

12. Unattached signage. One sign of no more than 15 square feet may be placed on the right of way adjacent to the use, subject to the 36-inch pedestrian passage clearance indicated above.

13. Precedence of special events. Should the time and location of the approved temporary use or structure intersect with the time and location of an approved and permitted special event, the use or structure must vacate the area subject to the event permit, unless separate approval has been granted by the event operator.

14. Sound amplification. No amplification of sound shall be permitted by transient businesses. A music player is acceptable as long as the sound does not extend beyond the immediate vicinity of the transient business and does not generate complaints from neighboring businesses, customers or community members.

15. Building codes. The structure complies with applicable building codes.

16. Duration of placement of temporary structure. Except where specifically authorized by the City Manager, the length of time that the temporary structure may remain on a site shall not exceed 3 consecutive months or a total of 6 months in any one calendar year.

17. Licensing. The applicant has obtained and will maintain all required licenses and permits, including a Lakeside business license and/or right-of-way use permit, as applicable.

18. Litter Cleanup. The applicant for any temporary use shall keep the area within 25 feet of the temporary use clean and free of litter, and dispose of the litter in their own container/receptacle. Use of City trash receptacles for trash from temporary uses is prohibited.

19. Visual appearance from street. All items visible from the street shall be kept in good repair and be maintained in a safe and clean condition.

20. Fire Inspection. Any temporary use involving flammable materials or fuels shall pass a fire safety inspection; or the local fire department shall indicate that such inspection is not required.

21. Conversion of transient business to permanent business. A transient business that occupies a single location for a period in excess of 45 consecutive days is considered to be permanent. Any transient business which becomes permanent must be:

 a. Permanently connected to sewer, water and power, as applicable.

 b. Illuminated with downcast shielded lighting when operating during hours of darkness.

c. Considered as a new commercial development and subject to all requirements for a new commercial development.

23. Appeal. Appeals to denial or imposition of conditions of use regarding an application for a temporary building, trailer, kiosk, mobile food unit or other structure shall be made to the City Council.