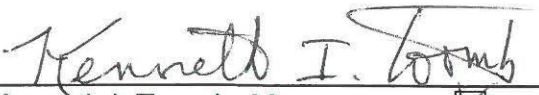




**Section 2.** Based upon the findings adopted herein, the Lebanon Development Code is hereby amended as specified in Exhibit "A", which is incorporated herein by this reference as if fully set forth at this point.

**Section 3.** Said Exhibit "A" shall be attached to, and become a part of, the Lebanon Development Code upon entry of this order.

Passed by the Lebanon City Council by a vote of 6 for and 0 against and approved by the Mayor this 8<sup>th</sup> day of August, 2012.

  
Kenneth I. Toomb, Mayor   
Bob Elliott, Council President

Attested:

  
Linda Kaser, City Clerk / Recorder

EXHIBIT "A"  
AMENDMENTS TO THE LEBANON DEVELOPMENT CODE

Lebanon Development Code, Section 16.08.100.D.2 shall be replaced in its entirety with the following new language:

**D. Limitations on Use**

**2. Highway Commercial Zone (Z-HCM):** Unless specifically allowed or otherwise modified by other provisions of this Code, the following regulations regarding outdoor displays shall apply.

- a. All business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building, except for the following: off-street parking or loading; drive-in or walk-up windows; displays of nursery plants, shrubs or trees and associated nursery supplies such as irrigation equipment; displays of new or used automobiles, trailers, trucks, motorcycles, bicycles, agricultural machinery, boats or other mobile equipment; and, displays of lumber and building materials as part of a permitted retail activity.
- b. Other retail activities not identified in item "a." above may display merchandise under one of the following options:
  - i. Items are only displayed during regular business hours and then removed or stored indoors during non-business hours.
  - ii. Items may be continuously displayed provided the display area occupies no more than 10% of the building square footage of the subject business.
- c. Outdoor displays of merchandise identified in items "a." and "b." above shall continuously be subject to the following limitations:
  - i. Shall be prohibited in required parking, driveway and vehicle maneuvering areas.
  - ii. Shall be prohibited in all landscaped areas, including landscaped parking areas.
  - iii. Shall not interfere with pedestrian access to the building or to adjacent buildings.
  - iv. Shall not violate clear vision provisions at all intersections.
  - v. Shall not violate any fire, life and safety access requirements.
  - vi. Shall not violate building code requirements.

**EXHIBIT B**  
**LEBANON CITY COUNCIL FINDINGS**  
**Planning File No. 12-04-20**

**I. NATURE OF THE APPLICATION**

This matter comes before the Lebanon City Council on the application of the City of Lebanon to amend the Lebanon Development Code.

**II. BACKGROUND INFORMATION**

The City wishes to amend Lebanon Development Code by establishing new regulations regarding outdoor displays in the Highway Commercial zone. Specific language is contained in the attached Ordinance Exhibit "A."

**III. PUBLIC HEARING**

**A. Planning Commission Action**

A public hearing was held on this application before the Lebanon Planning Commission on July 18, 2012. At that hearing, City Planning File 12-04-20 was made a part of the record. Notice of the hearing was published consistent with the requirements in Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend the City Council adopt the proposed amendments to the Lebanon Development Code. The Commission found the proposed changes consistent with the applicable decision criteria.

**B. City Council Action**

A public hearing was held on this application before the Lebanon City Council on August 8, 2012. At that hearing, City Planning File 12-04-20 was made a part of the record. Notice of the hearing was published consistent with the requirements in Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the City Council deliberated on the issue and voted to adopt the proposed amendments to the Lebanon Development Code. The Council found the proposed changes consistent with the applicable decision criteria.

**IV. FINDINGS OF FACT-GENERAL**

The Lebanon City Council, after careful consideration of the testimony and evidence in the record, adopts the following General Findings of Fact:

- A. The applicant is the City of Lebanon.
- B. The City wishes to amend Lebanon Development Code by establishing new regulations regarding outdoor displays in the Highway Commercial zone. Specific language is contained in the Ordinance Exhibit "A."
- C. The decision to approve or deny shall be based on the criteria contained in the Lebanon Development Code: Chapter 16.28 – Comprehensive Plan and Development Code Text Amendments.

## V. APPLICATION SUMMARY

- A. Current regulations regarding outdoor displays address two commercial areas: one for the Neighborhood Commercial and Central Business Commercial (downtown) zones, and, a second specifically for the Highway Commercial zone. Restrictions in the former allow outdoor displays within 3-feet of a wall located on private property provided the displays do not interfere with vehicle or pedestrian movements or create a safety hazard (e.g., Buyer's Market, across from City Hall).
- B. For the Highway Commercial zone, current standards require all ". . . business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building, except for off-street parking or loading, drive-in windows, nursery plants, shrubs or trees, or displays of new or used automobiles, trailers, trucks, boats or other mobile equipment." In effect, these provisions limit commercial outdoor displays to vehicle sales and nursery stock.
- C. However, there are other types of commercial activities that commonly use outdoor display: lumber yards, home improvement stores, specialty contractors (e.g., monuments) and farm supply stores. All these activities are allowed within the Highway Commercial zone, yet they would be prohibited from displaying much of their merchandise based on current Code requirements.
- D. Ordinance Exhibit "A" contains proposed new language. The changes only address the Highway Commercial zone as previous Commission work sessions concluded regulations for the two remaining commercial zones are adequate. The new language expands the types of businesses that may display merchandise, but within certain limitations. Proposed regulations address only the display of merchandise; all remaining business activities must be conducted within an enclosed structure. The proposed outdoor display language (in *italics*) is summarized below:

### **D. Limitations on Use**

- 2. **Highway Commercial Zone (Z-HCM):** *Unless specifically allowed or otherwise modified by other provisions of this Code, the following regulations regarding outdoor displays shall apply.*

- a. *All business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building, except for the following: off-street parking or loading; drive-in or walk-up windows; displays of nursery plants, shrubs or trees and associated nursery supplies such as irrigation equipment; displays of new or used automobiles, trailers, trucks, motorcycles, bicycles, agricultural machinery, boats or other mobile equipment; and, displays of lumber and building materials as part of a permitted retail activity.*

This mirrors the existing Code language with three changes: the "nursery plants" section was expanded to include related supplies; the "mobile equipment" section was expanded to include motorcycles and farm equipment; and, lumber and building materials were added.

- b. *Other retail activities not identified in item "a." above may display merchandise under one of the following options:*
  - i. *Items are only displayed during regular business hours and then removed or stored indoors during non-business hours.*
  - ii. *Items may be continuously displayed provided the display area occupies no more than 10% of the building square footage of the subject business.*

There are types of business that require continual display of merchandise for both promotional and practical reasons; e.g., auto sales. However, other types of business may wish to conduct an occasional outdoor display (e.g., a clothing store) but would otherwise be prohibited from doing so under current regulations. For this reason, the language in subsection "b." may be appropriate.

Businesses are provided two options: the merchandise may be displayed only during business hours, or, the outdoor display area can occupy no more than 10% of the size of the commercial business conducting the display. The intent is to limit the timing and duration of these types of displays.

- c. *Outdoor displays of merchandise identified in items "a." and "b." above shall continuously be subject to the following limitations:*
  - i. *Shall be prohibited in required parking, driveway and vehicle maneuvering areas.*
  - ii. *Shall be prohibited in all landscaped areas, including landscaped parking areas.*
  - iii. *Shall not interfere with pedestrian access to the building or to adjacent buildings.*
  - iv. *Shall not violate clear vision provisions at all intersections.*
  - v. *Shall not violate any fire, life and safety access requirements.*
  - vi. *Shall not violate building code requirements.*

Current language identifies certain areas where displays are prohibited: within required parking areas and driveways, in violation of safety requirements and in violation of building code regulations. From a safety and aesthetic perspective, outdoor displays should not interfere with clear-visions areas and not be placed on any landscaped area. These restrictions were added to the current Code language.

- E. The Department sent out notice of the Code amendments to affected agencies and the Department of Land Conservation and Development; no comments were received.

## VI. CRITERIA AND FINDINGS

- A. Chapter 16.28 establishes the procedures and criteria for amending the text of both the Comprehensive Plan and the Development Code. Section 16.28.010 identifies the purpose of text amendments while Section 16.28.020 identifies the various types of amendments. The proposed changes involve only the text of the Development Code; amendments to the Comprehensive Plan are not required.
- B. Section 16.28.030 identifies those agents authorized to initiate a text amendment. Conforming to provisions in this Section, the Planning Commission and City staff initiated this action.
- C. Section 16.28.040 requires the City Recorder to maintain records of all changes to the Development Code. This administrative process requires City compliance.
- D. Sections 16.28.050 and 16.28.060 require all proposed amendments to the Comprehensive Plan Text shall be consistent with Oregon's Statewide Planning Goals, and with all adopted facility plans, including the Transportation System Plan. These Sections do not apply, as the proposal does not amend the Plan.

- E. Section 16.28.070 requires Development Code amendments to be consistent with the City's Transportation System Plan.

FINDINGS: The City has the authority to require applicants to conduct a Traffic Impact Study or Analysis for any new use (LDC Sections 16.12.010.B and 16.20.110). The Study or Analysis must indicate the proposed use complies with the adopted TSP or mitigation measures are available to ensure compliance. The amendments do not change these requirements. Further, the Code amendment does not change functional classifications or performance standards for City transportation routes.

- F. Section 16.28.080 outlines the process for text amendments. This is a legislative action pursuant to Chapter 16.20 and requires hearings before both the Planning Commission and City Council. The Commission reviews the request and makes recommendation to the Council. The final decision on this matter rests with the City Council. For the record, this Commission hearing and process comply with the requirements for a legislative action.

- G. Specific decision criteria are contained in Section 16.28.090. The City may approve a Development Code Amendment application if it satisfies the relevant Decision Criteria: Oregon Department of Land Conservation and Development (DLCD) administrative rules, the applicable Statewide Planning Goals, the applicable provisions of the Lebanon Comprehensive Plan, and any other applicable and relevant facility or special area plans, specific projects or goals adopted by the City.

FINDINGS: Findings in response to the above noted criteria:

- 1. DLCD Administrative Rules – Oregon Administrative Rules address a variety of issues including development on farmland, provisions for needed housing, requirements to expand an urban growth boundary, meeting natural resource planning requirements and similar issues. The DLCD did not identify specific Administrative Rules for the City to consider in their findings.

- 2. Statewide Planning Goals - Compliance with the Statewide Goals is noted as follows:

Goal 1, Citizen Involvement: The Planning Commission and City Council will conduct public hearings on the request, consistent with City procedures and the intent of the Goal.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the locally adopted Development Code requirements.

Goal 3, Agricultural Lands: The proposal does not involve or affect farmland. An exception to this goal is not required.

Goal 4, Forest Lands: The proposal does not involve or affect identified forestland. An exception to this goal is not required.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: The proposed changes to the Code do not alter existing regulations that affect identified historic, cultural, or natural resources within Lebanon.

Goal 6, Air, Water and Land Resource Quality: The existing Code regulates outdoor display in the Highway Commercial zone. These amendments revise some of the requirements, granting additional flexibility. However, nothing in this amendment

establishes or promotes land uses that adversely affect air, water or resource quality issues.

Goal 7, Natural Hazards: The Code amendment does not alter development requirements for natural hazard areas; these remain in force.

Goal 8, Recreational Needs: The proposed changes do not create uses that adversely affect recreational opportunities or involve land identified for recreational purposes.

Goal 9, Economic Development: The City anticipates the Code amendment will permit greater flexibility for businesses by allowing limited outdoor displays.

Goal 10, Housing: The proposed Code amendment does not affect housing supply or location, or, the City's ability to meet housing needs.

Goal 11, Public Facilities and Services: Any new use allowed by the amendments must still comply with existing public facility requirements. The amendment does not affect the City's ability to provide public services.

Goal 12, Transportation: As previously noted, the Code currently allows outdoor displays. These amendments modify the requirements to increase flexibility for outdoor displays and do not create new uses or activities that significantly affect the City's transportation facilities.

Goal 13, Energy Conservation: The amendments are neutral with regard to energy conservation. For the record, all new construction must conform to applicable energy efficiency requirements.

Goal 14, Urbanization: The proposed amendments address urban uses within an urban environment, including provisions for related procedural and development requirements.

Goals 15 to 19, Willamette River Greenway, Estuarine Resources, Coastal Shores, Beaches and Dunes, Ocean Resources: The proposals do not involve land within the Willamette Greenway or coastal areas.

In general, the proposed amendments are consistent with Goal provisions, or, the Goals do not directly apply to the proposed amendments.

3. Lebanon Comprehensive Plan – The Comprehensive Plan consists of ten Chapters with each Chapter addressing specific land use issues such as housing or natural resources. Each Chapter is reviewed below:

a. Chapter 1: Introduction - This introductory Chapter describes the Comprehensive Plan, its relationship to the Statewide Land Use Goals, the Citizen Involvement program and key terminology. As introductory provisions, this Chapter does not directly apply to the proposed text amendments.

b. Chapter 2: Natural Environment – The Chapter address goals and policies related to the City's natural environment.

FINDINGS: This Chapter does not apply, as the Code revision does not establish new regulations involving wetlands, wildlife habitat or other resources identified as requiring preservation or protection.

c. Chapter 3: Urbanization – This Chapter provides the basic framework for future



urban development within the City, including public facility provisions and annexations.

FINDINGS: This Chapter does not apply, as the proposed Code amendments do not affect, reduce or otherwise alter provisions for urban development within the community.

- d. Chapter 4: Land Use – This Chapter details the goals and policies to assure the City provides different types of land within City limits that are suitable for a variety of uses.

FINDINGS: This Chapter does not apply as the proposal Code amendments do not modify or alter existing zoning, and thereby, the City's ability to provide different types of land, of suitable size and quantity, to meet a variety of development needs.

- e. Chapter 5: Population & Economy – This Chapter addresses population growth and economic development as well as trends affecting both.

FINDINGS: As previously noted, the existing Code allows outdoor displays. These amendments simply modify certain requirements, allowing greater flexibility for individual businesses. As such, the City anticipates a positive economic benefit.

- f. Chapter 6: Housing – This Chapter establishes the City's Goals and Policies related to Housing.

FINDINGS: The amendments do not directly apply, as they do not affect the City's ability to meet the community's housing needs.

- g. Chapter 7: Community Friendly Development & Preservation of Historic Resources - This Chapter focuses on policies creating a built environment suitable for the needs of a diverse population through a variety of uses scaled for the pedestrian, and capable of accommodating the automobile and mass transit.

FINDINGS: Policies in this Chapter focus on design elements to improve density and housing options while encouraging mixing or combining land uses (residential, commercial, industrial, public) to increase urban livability. Therefore, this Chapter does not directly apply to the request.

- h. Chapter 8: Transportation – This Chapter addresses the transportation needs of the City with an emphasis of creating a variety of transportation options for pedestrians, bicyclists, vehicles and mass transit.

FINDINGS: As noted, City staff has the authority to require applicants to conduct a Traffic Impact Study or Analysis for new development; this requirement remains. Otherwise, the amendments do not alter functional classifications or performance standards for transportation routes.

- i. Chapter 9: Public Facilities and Service - The City is required by State law to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve urban development.

FINDINGS: Uses allowed by the amendments must still comply with existing public facility requirements. Otherwise, the proposal does not affect the City's ability to provide needed services.

- j. Chapter 10: Plan Implementation, Amendment, and Land Use Planning Coordination – This Chapter establishes procedures for amending the Comprehensive Plan Map and Zoning Map.

FINDINGS: This Chapter does not apply as the proposal amends only the Development Code text; there are no changes to the Comprehensive Plan or Zoning maps.

4. Other Facility Plans or Projects - other plans or policies that apply to the proposed Code amendments were identified.
- H. The Code amendments provide greater flexibility for outdoor display within the Highway Commercial zone, recognizing some limitations of the existing regulations. In addition, they address additional safety and aesthetic concerns.

## VII. CONCLUSION

The City Council concludes the proposed amendments to the Development Code comply with the applicable decision criteria.