

A BILL FOR AN ORDINANCE AMENDING)
SECTION 16.19.110 OF THE CITY OF)
LEBANON DEVELOPMENT CODE)
REGULATING ROADSIDE VENDORS) ORDINANCE BILL NO. 2016-6
ORDINANCE NO. 2875

WHEREAS, the Planning Commission for the City of Lebanon conducted a hearing on Planning File No. 16-01-04 and made findings recommending certain amendments to the Development Code of the City of Lebanon on March 16, 2016; and

WHEREAS, the City Council, pursuant to the provisions of the Lebanon Development Code, after appropriate notice given, has conducted a hearing to take testimony, hear arguments and to consider all of the evidence concerning such proposed Development Code amendments, such hearing being conducted on April 13, 2016; and

WHEREAS, the City Council has considered all relevant evidence and deliberated.

NOW, THEREFORE, BE IT RESOLVED:

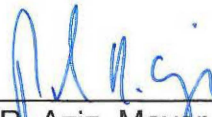
Section 1. In addition to the findings referred to above, the City Council does hereby adopt and find those matters contained in Exhibit "B" which is incorporated herein by this reference as if fully set forth at this point.

Section 2. Based upon the findings adopted herein, the Lebanon Development Code is hereby amended by the inclusion of new language 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 and executed by the Mayor on this on this 13th day of April, 2016 by a vote of 5 yeas and 0 nays.

CITY OF LEBANON, OREGON



Paul R. Aziz, Mayor
Bob Elliott, Council President

ATTESTED BY:



Linda Kaser, City Clerk

EXHIBIT A

AMENDMENTS TO THE LEBANON DEVELOPMENT CODE

I. *Section 16.19.110.B.1-3 shall be replaced with the following new language:*

B. Permitted Uses

Where allowed, the following temporary uses shall be permitted subject to the following limitations and requirements:

1. Tree and Fireworks

Christmas tree or fireworks sales are permitted subject to the following:

- a. The sales shall be allowed in Commercial zones and those properties containing public or semi-public uses, such as schools or churches, regardless of the underlying zone.
- b. Such uses located within Residential zones shall not operate beyond 9:00 PM.
- c. The specific activity is located within the City for no more than 90 days in a calendar year.
- d. The operator of a temporary use shall obtain all permits required by other agencies.
- e. The required parking for the primary uses on the same lot is not reduced below Ordinance requirements and the use does not block driveways, driveway entrances or parking aisles.
- f. The activity conforms to all signage requirements in Chapter 16.18.
- g. The activity conforms to all setback requirements of the zone.
- h. The operator of a temporary use shall provide the required information, pay the applicable fee, obtain and display the required temporary business permit.

2. Commercial Activities

Amusement and recreational services and retail sales and services are permitted in all Commercial zones, subject to the following:

- a. The business may be operated from a vehicle or temporary structure.
- b. A site and/or address shall not contain more than one vendor at a time. For the purpose of this Section a "site and/or address" may contain several tax lots under the same or similar ownership, or contain one or more permanent business on a single or multiple parcels (e.g., a shopping center).
- c. The business may occupy no more than 300 square feet of area on a given site and/or address. An exemption to this limitation shall be permitted for amusement and carnival types of activities, provided, the use complies with the remaining provisions in this subsection.

- d. The specific activity is located within the City for no more than 90 days in a calendar year.
- e. The operator of a temporary use shall obtain all permits required by other agencies.
- f. The required parking for the primary uses on the same lot is not reduced below Ordinance requirements and the use does not block driveways, driveway entrances or parking aisles.
- g. The activity conforms to all signage requirements in Chapter 16.18.
- h. The activity conforms to all setback requirements of the zone.
- i. The operator of a temporary use shall provide the required information, pay the applicable fee, obtain and display the required temporary business permit.

3. Food Service

Food services are permitted in all Commercial zones, subject to the following:

- a. The business may be operated from a vehicle or temporary structure. With the exception of electrical service, the vehicle or structure shall be self-contained.
- b. There is no limit to the number of food vendors that may be located on a site and/or address as identified in item 2.b. of this subsection.
- c. The food vendor may occupy no more than 300 square feet of area on a given site and/or address.
- d. The food vendor is limited to 180 days at a given site and/or address with an unlimited number of 180-day extensions. Each extension shall require a new permit.
- e. The required parking for the primary uses on the same lot is not reduced below Ordinance requirements and the use does not block driveways, driveway entrances or parking aisles.
- f. The activity conforms to all signage requirements in Chapter 16.18.
- g. The activity conforms to all setback requirements applicable to zone.
- h. Prior to obtaining a temporary use permit, the applicant shall show evidence of obtaining the necessary permits from Linn County Department of Health Services for the operation a mobile food unit. In addition, the operator shall obtain all permits required by other agencies.
- i. The food vendor operator shall provide the required information, pay the applicable fee, obtain and display the required temporary business permit.

II. The remaining subsections in Section 16.19.110.B, shall be renumbered.

EXHIBIT B

LEBANON CITY COUNCIL FINDINGS Planning File No. 16-01-04

I. NATURE OF THE APPLICATION

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

II. BACKGROUND INFORMATION

The City wishes to amend the Lebanon Development Code to revise and clarify the requirements for temporary uses. Exhibit "A." contains the specific language.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was held on this application before the Lebanon Planning Commission on March 16, 2016. At that hearing, City Planning File 16-01-04 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 April 13, 2016. At that hearing, City Planning File 16-01-04 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 adopts the following General Findings of Fact:

- A. The applicant is the City of Lebanon.
- B. The City wishes to amend the Lebanon Development Code to revise and clarify the requirements for temporary uses. Exhibit "A." contains the specific language.
- C. The proposal affects all property within the City.

- D. The decision to approve or deny shall be based on criteria contained in the Lebanon Development Code: Chapter 16.28 – Comprehensive Plan and Development Code Text Amendments.

V. APPLICATION SUMMARY

- A. Based on concerns regarding the visual and aesthetic impact of temporary commercial vendors, the City Council directed Community Development Department staff to create some alternative Code language to address these concerns. The Council reviewed staff recommendations at the January, 2016 Council meeting and suggested the following changes be considered by the Planning Commission:
1. Limit the display area, exempting fireworks and Christmas tree sales from this provision. Staff suggested 300 square feet as a starting point.
 2. Limit the duration of a business to a maximum of 90-days within a calendar year.
 3. Limit the number of vendors to a maximum of one per lot and/or address.
 4. Establish separate provisions for food carts allowing them to remain at a single site for more than 90-days.
- B. With these guidelines, staff presented proposed revisions during a work session at the February Commission meeting. Based on the results of the work session and subsequent Commission hearing in March, the final recommended language is found in Exhibit “A” of this Ordinance. A brief summary follows:
1. Tree and Fireworks – Requirements related to these activities are grouped under one Section. Clarity was also provided to ensure required parking and setbacks are maintained, permits are obtained and signs conform to Code requirements.
 2. Commercial Activities – A site may contain only one vendor at a time – no multiple vendors for a particular site and/or address, which is defined. The business can occupy no more than 300 square feet of area, with the exception of amusement/carnival types of businesses. The activity can only be within the City for 90 days within a calendar year. This effectively limits a business from relocating. Requirements regarding, access, setbacks, parking and signs apply.
 3. Food Vendors – This is a new Section and similar to “Commercial Activities” but specific to food vendors. There is no limit to the number of food vendors that may occupy a site and/or address. Unlike regular commercial activities, a 180-day limit applies and an unlimited number of extensions may be granted with a new permit. In addition, proof of a permit from Linn County Health is required before a temporary use can be issued. Again, previous comments regarding, access, setbacks, parking and signs apply.

- C. The changes effectively allow a concentration of food carts at a site and/or address. On occasion, this same site may also contain a commercial activity and/or a Christmas tree or fireworks sales. However, these later two are limited to 90-days while the food vendors have the potential to remain indefinitely.
- D. The Department sent out notice of the Code amendments to affected agencies and the Department of Land Conservation (DLCDC). The Department did not receive any comments as of the date of this hearing.

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, City Council 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 amendments address types, duration and similar requirements for temporary uses. Nothing in this action creates new activities nor changes 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 and the final decision rests with the City Council. For the record, the two hearings 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 (DLCDC) 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 – Staff reviewed the Oregon Administrative Rules. The 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. In this review, staff notes there are no Administrative Rules that specifically address the proposed Code amendment. Further, the DLCD did not identify specific Administrative Rules for the City to consider.

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: 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: These amendments have potential economic benefits as it specifically supports the establishment of food carts.

Goal 10, Housing: The amendments do not affect housing supply or location, or, the City's ability to meet identified housing needs.

Goal 11, Public Facilities and Services: The amendment does not affect the City's ability to provide public services or requirements for public service connections.

Goal 12, Transportation: The proposed Code revisions do not create uses or activities that significantly affect the City's transportation facilities.

Goal 13, Energy Conservation: The amendments are neutral regarding energy matters.

Goal 14, Urbanization: The proposed amendments address urban uses within an urban environment.

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 amendments do not directly affect Goal provisions.

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 amendments do 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 and those trends affecting both.

FINDINGS: The amendments have no impact on population but have potential economic benefits as previously noted.

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

FINDINGS: The amendments have no impact on 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: The amendments do not change 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 do not prohibit or restrict the ability to provide necessary public 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 - In reviewing other documents, Department staff, Commission or Council did not identify and plans or policies that apply to the proposed Code amendments.

VII. CONCLUSION

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