

**ORDINANCE 2851**

**AN ORDINANCE OF THE CITY OF LAKE OSWEGO AMENDING CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) OF THE LAKE OSWEGO CODE FOR THE PURPOSE OF ALLOWING SEASONAL (NOV. 1 – APRIL 30) RESTAURANT ENCLOSURES ON PRIVATE PROPERTY IN COMMERCIAL ZONES; AND ADOPTING FINDINGS (LU 20-0019).**

WHEREAS, notice of the public hearing for consideration of this Ordinance was duly given in the manner required by law; and

WHEREAS, a public hearing before the Planning Commission was held on July 27, 2020, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the Planning Commission has recommended that LU 20-0019 be approved by the City Council; and

WHEREAS, a public hearing on LU 20-0019 was held before the City Council of the City of Lake Oswego on September 1, 2020, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the Council finds that the Community Development Code should be amended to allow seasonal (Nov. 1 – April 30) restaurant enclosures on private property in commercial zones to provide greater for flexibility restaurant operations, by offering the added customer preferences for outside dining opportunities in the fall, winter, and spring by enclosing outdoor dining areas designed for peak use;

The City of Lake Oswego ordains as follows:

**Section 1.** The City Council hereby adopts the Findings and Conclusions (LU 20-0019), attached as Attachment 1.

**Section 2.** The Lake Oswego Code is hereby amended by adding the new text shown in double underlined type and deleting text shown in ~~striketrough~~ type in Attachment 2.

**Section 3. Severability.** The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section 4. Effective Date.** As provided in Section 35.C. of the Lake Oswego Charter, this ordinance shall take effect on the 30<sup>th</sup> day following enactment.

Enacted at the meeting of the Lake Oswego City Council of the City of Lake Oswego held on the 15th day of September, 2020.

AYES: Mayor Studebaker, O'Neill, Nguyen, LaMotte, Wendland, Manz

NOES: Kohlhoff

ABSENT:

ABSTAIN:

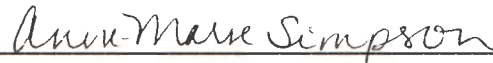
EXCUSED:



Kent Studebaker  
Kent Studebaker, Mayor

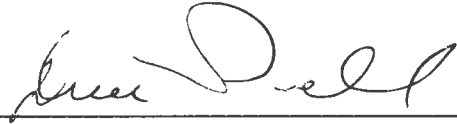
Dated: September 18, 2020

ATTEST:



Anne-Marie Simpson  
Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:



David Powell  
David Powell  
City Attorney

BEFORE THE CITY COUNCIL  
OF THE CITY OF LAKE OSWEGO

A REQUEST FOR AMENDMENTS TO THE ) LU 20-0019  
COMMUNITY DEVELOPMENT CODE FOR THE ) (CITY OF LAKE OSWEGO)  
PURPOSE OF ALLOWING SEASONAL ) FINDINGS, CONCLUSIONS & ORDER  
RESTAURANT ENCLOSURES AND ADOPTING )  
ORDINANCE 2851. )

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**NATURE OF PROCEEDINGS**

This matter came before the Lake Oswego City Council on the recommendation of the Planning Commission for legislative amendments to the Community Development Code (CDC) for the purpose of allowing seasonal (Nov. 1 – April 30) restaurant enclosures on private property in commercial zones. The proposed amendments are to:

- LOC 50.03.003.6 - Use Specific Standards for Commercial Uses
- LOC 50.03.005.4 - Temporary Structures and Uses in Commercial and Industrial Zones
- LOC 50.05.004.2 - Downtown Redevelopment Design District
- LOC 50.05.005.2 - West Lake Grove Design District
- LOC 50.05.007.3 - Lake Grove Village Center Overlay District
- LOC 50.05.008.3 - Southwest Overlay District
- LOC 50.06.001.5 - Commercial Building Design standards
- LOC 50.06.002 - Parking
- LOC 50.07.003.13 - Ministerial Development Decisions
- LOC 50.07.003.14 - Minor Development Decisions
- LOC 50.10.003 – Definitions

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its meeting on July 27, 2020. The Commission adopted its Findings, Conclusion and Order recommending approval of LU 19-0019 on August 10, 2020.

The City Council held a public hearing and considered the Commission’s recommendation on

1 September 1, 2020. The following information was submitted to the Council and added to the  
2 record:

3 G-8 Email from Lake Oswego Chamber of Commerce, dated 8/28/20

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5 **CRITERIA AND STANDARDS**

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7 A. City of Lake Oswego Comprehensive Plan Policies

8 Land Use Planning – Land Use Admin., Policies A-1, A-2, B-3, C-1, C-3, C-5, and D-1

9 Community Culture – Citizen Engagement, Policies 1-5

10 Inspiring Spaces and Places, Goal 1, Policies 1, 2, 8, and 9; Goal 2, Policies 4 (d and e)

11 Economic Vitality, Policy B-1

12  
13 B. Neighborhood Plans:

14 Evergreen Neighborhood Plan, Land Use, Commercial: Policy 1

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16 First Addition Neighbors and Forest Hills Neighborhood Plan, Downtown Commercial  
17 District: Policy 5

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19 Lake Forest Neighborhood Plan, Economic Development and Commercial Lands: Policy 3

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21 Lake Grove Neighborhood Plan, Economic Development/Commercial Lands: Policies 5, 7, 9

22  
23 Old Town Neighborhood Plan, Commercial Land Uses: Policies 4 and 8

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25 Waluga Neighborhood Plan, Goal 2: Land Use Planning, Policy 2, Goal 9: Economic  
26 Development Policies 5, 7 and 9

27  
28 C. City of Lake Oswego Community Development Code-Procedure (LOC Chapter 50)

29 LOC 50.07.003.3 Notice of Public Hearing

30 LOC 50.07.003.4 Hearings before a Hearings Body

31 LOC 50.07.003.16.a Legislative Decisions Defined

32 LOC 50.07.003.16.b Criteria for Legislative Decision

33 LOC 50.07.003.16.c Required Notice to DLCD

34 LOC 50.07.003.16.d Planning Commission Recommendation Required

35 LOC 50.07.003.16.e City Council Review and Decision

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37 **FINDINGS AND REASONS**

38 The City Council incorporates the Planning Commission staff report dated July 17, 2020 for LU  
39 20-0019, with all exhibits, the staff Council Report dated August 21, 2020, with all exhibits, and

1 the Findings and Reasons in the Planning Commission’s August 10, 2020 Findings, Conclusions  
2 and Order, as support for the Council’s decision.

3 **CONCLUSIONS**

4 The City Council concludes that LU 20-0019 complies with all applicable criteria, and that  
5 Ordinance 2851, which implements LU 20-0019, should be enacted.

**50.03.003 USE SPECIFIC STANDARDS**

**6. USE-SPECIFIC STANDARDS FOR COMMERCIAL USES**

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**u. Restaurant**

- i. Drive-through service is only allowed in the following:
  - (1) In the HC and FMU zones.
  - (2) In the GC zone, outside of the Lake Grove Village Center, after approval of a conditional use permit.
  - (3) In the Lake Grove Village Center Overlay district, a maximum of two restaurants with drive-through service windows are permitted with a conditional use permit, but no restaurant with drive-through service may be located in a Village Transition Area.
  
- ii. In the WLG OC zone, service of food and beverages shall be primarily for consumption on the premises. The total size of indoor and outdoor seating areas of any restaurant shall be limited to 1,500 sq. ft. of gross floor area.
  
- iii. In the CR&D and MC zones, this use shall not exceed 20,000 sq. ft. gross floor area. In the MC zone, the cumulative square footage of retail businesses or buildings on a site shall not exceed 60,000 sq. ft. on a single lot or parcel or on adjacent lots or parcels. In the CR&D zone, cumulative retail uses shall not exceed 20,000 sq. ft. or 20% of the total building floor area per lot, whichever is less. The maximum numerical limitation on cumulative retail uses shall not exceed the retail square footage amount approved for the site.
  
- iv. In the OC and CR&D zones, specialty food stores, e.g., coffee shops and juice bars, shall not exceed 5,000 sq. ft. of gross floor area.
  
- v. One seasonal dining restaurant enclosure and one entrance vestibule per restaurant business is allowed from November 1 to April 30. The enclosures must be removed by May 1. The seasonal restaurant enclosures shall meet the required dimensional standards (e.g., building setbacks, maximum lot coverage, etc.) of the zone.**

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## 50.03.005 TEMPORARY STRUCTURES AND USES

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### 4. IN COMMERCIAL AND INDUSTRIAL ZONES

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The following temporary uses are permitted in commercial and industrial zones. Business licenses are required for all temporary commercial activities.

- a. A tent, trailer or other portable structure for sales, promotional or educational events; such use shall not exceed two consecutive weeks and a total of 14 days (any portion of a day, between 12:00 a.m. and ending at 11:59 p.m., shall be counted as a day) in any six-month period.
- b. Seasonal retail sales as detailed below:
  - i. Christmas tree sales from November 26 to December 31.
  - ii. Outdoor restaurant uses and seasonal restaurant enclosures, in conjunction with an existing indoor year-round restaurant. No additional parking is required ~~for the outdoor use~~.
  - iii. "Pushcart" vendors in the EC and GC zones. Food vendors will have all required Health Department licenses and certificates. Such uses limited to food and flowers.

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## 50.05.004 DOWNTOWN REDEVELOPMENT DESIGN DISTRICT

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### 2. APPLICABILITY

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Except as otherwise expressly provided below, the following developments within the Downtown Redevelopment Design District (shown in Figure [50.05.004-A](#)) are subject to the requirements of this section:

Figure 50.05.004-A: Downtown Redevelopment Design District



- a. Construction of a new building;
- b. Substantial remodeling of an existing building. For the purposes of this section, "substantial remodeling" means:
  - i. Exterior remodeling that changes the appearance of more than 50% of any building elevation; or
  - ii. A restaurant building expansion of more than 100 sq. ft. or any other expansion of a building of more than 300 ft.

Exceptions:

**(1)** Expansion is solely designed and constructed:

- (1a)** To provide for accessibility to the disabled,
- (2b)** To provide for energy conservation (e.g., addition of an entry vestibule),
- (3c)** To provide for screened recycling or trash storage, or



(4d) To relocate or screen visible exterior mechanical equipment so that such equipment is no longer visible;

**(2) Seasonal restaurant enclosures**

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**50.05.005 WEST LAKE GROVE DESIGN DISTRICT**

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**2. APPLICABILITY**

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This section applies to all land within the West Lake Grove Design District, as shown on Figure [50.05.005-A](#), which consists of three zones:

- a. Residential Mixed Use (WLG RMU),
- b. Office Commercial (WLG OC), and
- c. Residential Townhome (WLG R-2.5).

**Exception: Seasonal restaurant enclosures.**

To the extent that any requirement of this overlay imposes a regulation relating to the same matter as the use, dimensional, or development regulations in this Code, this section shall prevail.

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**50.05.007 LAKE GROVE VILLAGE CENTER OVERLAY DISTRICT**

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**3. APPLICABILITY**

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**c. Applicability by Type of Development**

**i. New Construction/Redevelopment**

All standards of this overlay apply to new building(s) and alterations to existing buildings that do not meet the definition of "remodel" in subsection 3.c.ii of this section, and site improvements on any vacant or redeveloped site and to new building(s) and related site improvements on any partially developed or developed site.

**Exceptions:**

- (1) For the construction or redevelopment of single-family dwellings, duplexes and townhomes, the pedestrian features standards of subsection 5.d of this section do not apply.
- (2) For seasonal restaurant enclosures, only the site dimensional standards of subsection 4 of this section apply.

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#### 50.05.008 SOUTHWEST OVERLAY DISTRICT

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### 3. RELATIONSHIP TO OTHER DEVELOPMENT STANDARDS

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a. LOC [50.05.008.4](#) to [50.05.008.7](#) supersede LOC [50.06.001.5](#), Commercial, Industrial, and Multi-Family Development Standards for Approval, in its entirety for developments subject to this overlay district.

Exceptions:

i. Residential mixed-use development in the NC and GC-zoned portion of the district shown on Figure [50.05.008-A](#) is subject to the discretionary building design standards in LOC [50.06.001.5](#) or clear and objective building design standards in LOC [50.06.001.7](#) in lieu of the SWEA standards in LOC [50.05.008.6](#), Building Design.

ii. Seasonal restaurant enclosures, except the site dimensional standards of subsection 5 of this section apply.

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#### 50.06.001.5 COMMERCIAL, INDUSTRIAL, AND MULTI-FAMILY DEVELOPMENT NOT LOCATED IN THE FMU ZONE, AND MINOR DEVELOPMENT IN THE R-DD ZONE STANDARDS FOR APPROVAL

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### b. Design Standards

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Buildings shall be designed and located to complement and preserve existing buildings, streets and paths, bridges and other elements of the built environment, and to assure accessibility for bicyclists, pedestrians, and users of other transportation modes.

i. Design buildings to be complementary in appearance to adjacent structures of good design with regard to:

- (1) Materials;

- (2) Setbacks (for retail/commercial part specifically);
- (3) Rooflines;
- (4) Height; and
- (5) Overall proportions.

**Exception: This standard does not apply to seasonal restaurant enclosures.**

ii. Where existing buildings are to remain on site, new development shall be designed to:

- (1) Integrate the remaining buildings into the overall design; or
- (2) Provide separate landscaping, remodeling or other treatment which establishes a distinct character and function for the remaining buildings.

Where a residential building is to remain, a lot meeting the zone requirements must be provided.

iii. Design bus shelters, drinking fountains, benches, mailboxes, etc., to be complementary in appearance to buildings.

iv. Design those elements listed below to be complementary in appearance to those buildings or structures upon which they are associated:

Awnings	Signs
Chimneys	Stairs
Decks and railings	Utility connections and meters
Doors	Vents
Downspouts	Windows
Foundations	Weather vanes, aerials, and other appendages attached to the roof or projecting above the roofline
Lights	
Mailboxes	
Mechanical equipment	

v. Design awnings, **seasonal restaurant enclosures**, signs, and lights to define the first floor or retail cornice height.

**50.06.002 PARKING**

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**2. STANDARDS FOR APPROVAL**

**a. Vehicle Parking**

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**ii. Number of Required Parking Spaces**

The number of required parking spaces under this Article shall be determined by either the Numerical Method (subsection 2.a.ii(1) of this section) or the Parking Study Method (subsection 2.a.ii(2) of this section).

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<b>TABLE 50.06.002-3: MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS</b>	
<b>Type of Use</b>	<b>Parking Space Required [1]</b>
<b>FOOTHILLS MIXED USE ZONE</b>	
1. Residential Use	0.5 space per dwelling unit
2. Commercial Residential Use	1 space per room
3. Nonresidential Use (commercial, industrial, institutional, etc.)	1 space per 1,000 sq. ft. G.F.A.
<b>OTHER AREAS</b>	
<b>(A) RESIDENTIAL</b>	
1. Single-family dwelling and duplex	1 space per dwelling unit
2. Accessory dwelling unit	1 space per unit (in addition to 1 space required for main dwelling unit). See LOC <a href="#">50.03.004.1.b.vi(1)(a)</a> for siting standard.
3. Multi-family	25% of the required parking for multi-family use shall be located to provide for common or visitor use
i. Studio/efficiency	1 space per unit
ii. 1 bedroom	1.25 spaces per unit
iii. 2 or more bedrooms	1.5 spaces per unit
4. Rooming and boarding house; bed and breakfast	1 space per each guest room plus 1 for owner

TABLE 50.06.002-3: MINIMUM OFF-STREET PARKING SPACE REQUIREMENTS	
Type of Use	Parking Space Required [1]
<b>(B) COMMERCIAL RESIDENTIAL</b>	
1. Hotel or motel	1 space per unit
2. Assisted living facility	0.5 space per unit plus 1 per 3 employees
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<b>(E) COMMERCIAL</b>	
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6. Specialty food stores, such as coffee, bagels, juice bars (take-out food/drink primarily) [2]	6.6 spaces per 1,000 sq. ft. G.F.A.
7. Eating or drinking establishment [2]	13.3 spaces per 1,000 sq. ft. G.F.A.
8. Eating or drinking establishment with drive-up window [2]	9.9 spaces per 1,000 sq. ft. G.F.A.
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<b>(H) USES NOT SPECIFICALLY MENTIONED</b>	
Parking requirement for uses not specifically mentioned in this section shall be determined by the requirements for off-street parking facilities for the listed use which, as determined by the City Manager, is most similar to the use not specifically mentioned, or by an analysis of the parking needs generated by the type of use [See LOC <a href="#">50.06.002.2.a.ii(6)</a> ].	
[1] Gross floor area does not include any parking area.	
<b>[2] Seasonal restaurant enclosures: No additional parking spaces required.</b>	
[23] Farm stands: When accessory use, no additional parking spaces required.	

**50.07.003.13 MINISTERIAL DEVELOPMENT DECISIONS**

**a. Ministerial Development Classification**

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**ii. Ministerial Development Type**

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**(19) Construction of a seasonal restaurant enclosure that:**

**(a) Is set back at least 20 feet from any lot frontage, any lot containing a residential use, public open space, or public access easement, and, if abutting a residential use, must be screened by a sight-obscuring fence or wall not less than six feet in height.**

**(b) Is not more than 400 square feet in area for dining enclosures or 50 square feet in area for an entrance vestibule. If both a dining enclosure and entrance vestibule are proposed, the maximum combined size of both shall not exceed 400 square feet in area; and,**

**(c) Does not include any walls over 12 feet in height.**

**50.07.003.14 MINOR DEVELOPMENT DECISIONS**

**a. Minor Development Classification**

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ii. "Minor development" under subsection 14.a.i(1) of this section includes:

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(5) Construction of a structure other than a detached single-family dwelling, duplex, zero lot line dwelling or accessory structure, or an exterior modification of such a structure which does not qualify as a ministerial development pursuant to LOC [50.07.003.13.a.ii\(3\)](#) **or (19)**.

**50.10.003 DEFINITIONS**

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**2. DEFINITION OF TERMS**

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**Floor Area**

The gross building floor area excluding:

- a. Attic (the unfinished space between the ceiling joists of the top story and the roof rafters);
- b. Vent shafts;

- c. Courtyards;
- d. Garages, except as modified in:
  - i. The R-5 zone (LOC [50.04.001.2.d.i\(1\)](#), for residential development);
  - ii. The R-6 zone (LOC [50.04.001.2.d.i\(1\)](#), for outright permitted residential development);
  - iii. The R-7.5, R-10, and R-15 zones (LOC [50.04.001.1.d.i\(1\)](#), for single-family dwellings);
- e. Allowable projections per LOC [50.04.003.8.a](#), Projections from Buildings;
- f. Decks;
- g. Patios;
- h. Uncovered exit stairs; ~~and~~
- i. Uncovered, above-grade driveways; and
- j. Seasonal restaurant enclosures.

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**Seasonal Restaurant Enclosure**

**Enclosure on three or more sides of an outdoor restaurant dining area, or an entryway vestibule attached to a building and providing access to a restaurant within an attached building, from November 1 to April 30. The enclosure materials are typically canvas and vinyl with a removable metal frame. The enclosure is not permanently affixed to any structure or the ground, as it must be removed not later than May 1 annually.**

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