

ORDINANCE 2879

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO AMENDING THE COMMUNITY DEVELOPMENT CODE (LOC CHAPTER 50) TO AMEND THE EXISTING EXCEPTION TO THE 14-DAY RESTRICTION ON TEMPORARY SHELTERS FOR CERTAIN COMMERCIAL USES DURING THE COVID-19 PANDEMIC (LU 21-0068).

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 November 8, 2021 at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the Planning Commission has recommended that LU 21-0068 be approved by the City Council; and

WHEREAS, a public hearing on LU 21-0068 was held before the City Council of the City of Lake Oswego on November 16, 2021, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the World Health Organization has declared the spread of the Novel Coronavirus COVID-19 to be a pandemic, and the State of Oregon has adopted emergency and temporary regulations to prevent the spread of COVID-19, and

WHEREAS, notwithstanding the State of Oregon lifting its COVID-19 physical distancing requirements on businesses, some Lake Oswego businesses choose to maintain physical distancing during the COVID-19 pandemic for the safety of their customers and employees;

WHEREAS, it is a City Council goal to support business investment in Lake Oswego, and to reduce impacts to businesses directly affected by COVID-19 replacing the 14-day restriction on temporary shelters with a longer timeframe for certain commercial uses during the pandemic;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 21-0068), attached as Attachment A.

Section 2. Section 50.03.005.4 of the Lake Oswego Code is hereby amended by adding the text shown in **bold, double-underlined** type and deleting the text shown in ~~striketrough~~ type in Attachment B.

Section 2. 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.

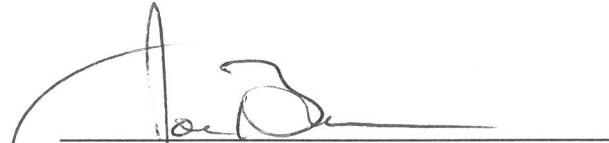
Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 16th day of November, 2021.

AYES: Mayor Buck, Manz, Nguyen, Wendland, Verdick, Rapf, Mboup

NOES: None

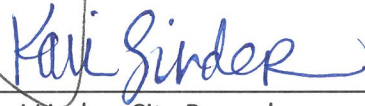
ABSTAIN: None

EXCUSED: None



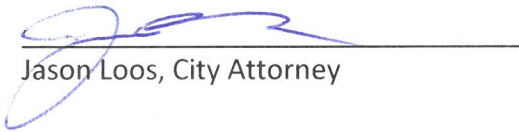
Joseph M. Buck, Mayor

ATTEST:



Kari Linder, City Recorder

APPROVED AS TO FORM:



Jason Loos, City Attorney

BEFORE THE CITY COUNCIL

OF THE CITY OF LAKE OSWEGO

A REQUEST FOR AMENDMENTS TO THE COMMUNITY DEVELOPMENT CODE (LOC CHAPTER 50) AMENDING THE EXISTING EXCEPTION TO THE 14-DAY RESTRICTION ON TEMPORARY SHELTERS FOR CERTAIN COMMERCIAL USES DURING THE COVID-19 PANDEMIC (Ordinance 2879)

LU 21-0068
FINDINGS & CONCLUSIONS

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 to allow temporary shelters for commercial uses for more than 14 days during October through May of each year when Lake Oswego businesses are subject to any emergency or temporary State regulation related to the COVID-19 pandemic. (The proposal amends a similar provision adopted in 2021 with Ordinance 2856 that was tied to the then State-mandated physical distancing requirements during the pandemic.)

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting held on November 8, 2021. The City Council held a public hearing to consider the Planning Commission’s recommendation on November 16, 2021.

CRITERIA AND STANDARDS

A. City of Lake Oswego Code:

- 50.03.005.4 Temporary Structures and Uses in Commercial and Industrial Zones
- 50.07.003.3 Notice of Public Hearing
- 50.07.003.4 Hearings before a Hearings Body
- 50.07.003.16.a Legislative Decisions Defined

1 50.07.003.16.b Criteria for Legislative Decision

2 50.07.003.16.d Planning Commission Recommendation Required

3 50.07.003.16.e City Council Review and Decision

4 B. City of Lake Oswego Comprehensive Plan Policies:

5 Land Use Planning – Land Use Administration, Policies A-1, A-2, A-3, C-3, C-1, and D-1

6 Community Culture – Citizen Engagement, Policies 1-5

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

8 Economic Vitality, Policy B-1

9 C. Neighborhood Plans:

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

11 First Addition Neighbors and Forest Hills Neighborhood Plan, Downtown Commercial District:

12 Policy 5

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

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

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

16 Waluga Neighborhood Plan, Goal 2: Land Use Planning, Policy 2, Goal 9: Economic

17 Development Policies 5, 7 and 9

18 **FINDINGS AND REASONS**

19 As findings supporting its decision, the City Council incorporates the Planning
20 Commission Staff Report dated November 2, 2021 (with all exhibits attached thereto).

21 **CONCLUSION**

22 The City Council concludes that LU 21-0068 complies with all applicable criteria and

1 should be approved. The Council also concludes that proposed Ordinance 2879, which
2 implements LU 21-0068, should be enacted.

3 AYES: Mayor Buck, Manz, Nguyen, Wendland, Verdick, Rapf, Mboup

4 NOES: None

5 ABSENT: None

6 ABSTAIN: None

7 EXCUSED: None

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9 DATED this 16th day of November, 2021.

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Joseph M. Buck, Mayor

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ATTEST:

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Kari Linder, City Recorder

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The following code changes are shown with new text in **bold and double-underlined** and deletions shown as ~~strikeout~~ text.

LOC 50.03.005.4 Temporary Structures and Uses

4. IN COMMERCIAL AND INDUSTRIAL ZONES

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 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.
- c. In the GC and EC zones, one sidewalk sale, not exceeding three days during each calendar quarter, when located in area abutting the seller's permanent business.
- d. A tent or similar temporary structure for restaurant seating or customer waiting, pickup or drop-off area, but excluding merchandise display, sales (other than food and drink), and promotional and educational events; such use shall be set back no less than ten feet from any residential zone, except where a larger setback is required for compliance with fire and life safety codes, and is limited to the **months of** October ~~24~~ through May ~~31~~ **and not more than 180 consecutive days** during years when ~~Clackamas County is~~ **Lake Oswego businesses are** subject to **an emergency or temporary State regulation** ~~state-mandated~~ **related to the COVID-19 pandemic**. ~~physical distancing restrictions~~. Any lighting within the tent or similar temporary structure shall be directed downward and shielded or screened to prevent lighting off-premises areas.

Comment: The intent of above language is to allow recurrence of temporary structures for commercial uses for as long as an emergency or temporary State regulation related to the COVID-19 pandemic is in effect, subject to the specific standards for lighting and setbacks.

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