



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

7/28/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Beaverton Plan Amendment
DLCD File Number 007-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, August 10, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Scott Whyte, City of Beaverton
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

JUL 21 2009

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Beaverton Local File No.: TA2009-0003
(If no number, use none)

Date of Adoption: 07/13/09 Date Mailed: 07/17/09
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 01-23-09

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: _____

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write See Attached.

**Amend Section 40.80.15.1 of the City Development Code, approval criteria for
Temporary Use – Mobile Sales, found in Chapter 40 thereof.**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write N/A.

Same

Plan Map Changed from : N/A to N/A

Zone Map Changed from: N/A to N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: N/A New:

Applicable Statewide Planning Goals: **1 & 2**

Was an Exception Adopted? Yes: No: X

=====
DLCD File No.: _____

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: **Metro, Washington**

County

Local Contact: Scott Whyte Area Code + Phone Number: (503) 526-2652

Address: PO BOX 4755

City: Beaverton Zip Code+4: 97076-4755

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your **ATTENTION: PLAN AMENDMENT SPECIALIST.**

ORDINANCE NO. 4513

**AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, CHAPTER 40 (APPLICATIONS)
AND CHAPTER 50 (PROCEDURES); TA 2009-0003
(AMENDMENT OF TEMPORARY USE – MOBILES SALES
STANDARDS AND APPROVAL CRITERIA)**

WHEREAS, the Beaverton Community Development Department has proposed a text amendment to the Beaverton Development Code, Ordinance No. 2050, effective through Ordinance No. 4498, intended to modify the Temporary Use – Mobile Sales standards and approval criteria with minor modifications to Temporary Use - Non Mobile Sales standards and approval criteria; and

WHEREAS, pursuant to Section 50.50.2-5 of the Development Code, the Beaverton Community Development Department provided required public notice for the Text Amendment application; and,

WHEREAS, pursuant to Section 50.50.6 of the Development Code, the Beaverton Community Development Department on April 1, 2009, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on April 8, 2009; and,

WHEREAS, on April 8, 2009, the Planning Commission conducted a public hearing for TA 2009-0003 and continued the hearing to May 13, 2009, and at the conclusion of the hearing, voted to recommend to the Beaverton City Council adoption of the proposed amendments to the Development Code as stated in Planning Commission Land Use Order No. 2150; and,

WHEREAS, no written appeal, pursuant to Section 50.75 of the Development Code, was filed for TA 2009-0003 following the issuance of the Planning Commission Land Use Order No. 2150; and,

WHEREAS, the City Council adopts as to approval criteria the facts and findings described in Land Use Order No. 2150 dated May 20, 2009, and the Planning Commission record, and the Council's Agenda Bill dated June 22, 2009, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. The Development Code, Ordinance No. 2050, effective through Ordinance 4498, Chapter 40, Applications, Section 40.80.15., is amended to read as set out in Exhibit "A" of this Ordinance, attached hereto and incorporated herein by this reference.

Section 2. The Development Code, Ordinance No. 2050, effective through Ordinance 4498, Chapter 50, Procedures, is amended to add a new section, Section 50.97. titled: *Permit Renewal for Temporary Use – Mobile Sales*, as set out in Exhibit "B" of this Ordinance, attached hereto and incorporated herein by this reference.

Section 3. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 4. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this ___ day of _____, 2009.

Passed by the Council this ___ day of _____, 2009.

Approved by the Mayor this ___ day of _____, 2009.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

DENNY DOYLE, Mayor

Section 1: The Development Code, Ordinance No. 2050, effective through Ordinance 4498, Chapter 40 - Applications, Section 40.80. Temporary Use, Sections 40.80.15.1 and 40.80.15.2 will be amended to read as follows:

40.80 **TEMPORARY USE**

40.80.15. **Application**

1. Temporary Mobile Sales.

A. Threshold. An application for Temporary Mobile Sales shall be required when the following threshold applies:

1. The sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than one (1) hour per day. ~~a period that is greater than one hour and less than seven (7) hours per day.~~

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Mobile Sales. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Temporary Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Temporary Mobile Sales application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
5. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.
6. The proposal will not pose a threat to the public safety or convenience when the temporary use is proposed to be located on a public right-of-way.
7. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district **and complies with all applicable use restrictions of the zone.**
8. The proposal will not be located within the vision clearance area of an intersection as specified in the Engineering Design Manual and Standard Drawings. [ORD 4365; September 2005]
9. The proposal does not involve use of a permanent building.
10. The proposal shall not obstruct or occupy **permanent minimum** required parking spaces unless it can be demonstrated that the permanent **minimum** required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.
11. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.
12. ~~The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use. The proposed hours of operation for the temporary use are allowed in that zoning district and do not require Conditional Use approval.~~

13. ~~The proposal has not been previously located on the same site in the same calendar year. A permit for Temporary Use – Mobile Sales has not been issued for another temporary use on the same site during the same approval period or portion thereof.~~

14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Temporary Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), ~~and any other information identified through a Pre-Application Conference.~~

E. Conditions of Approval. ~~All applications for Temporary Use – Mobile Sales shall comply with the following conditions identified below.~~ The decision making authority may impose ~~other~~ conditions on the approval of a Temporary Mobile Sales application to ensure compliance with the approval criteria. ~~In addition to imposing other conditions to ensure compliance with the approval criteria, the decision-making authority may also impose the following conditions when applicable:~~

1. The Temporary Mobile Sales shall obtain a City Business License.
2. Temporary Mobile Sales involving the sale of food products shall be licensed by the appropriate State and/or local agency.
3. All Temporary Mobile Sales activities shall be conducted at the particular location authorized.
4. The Temporary Mobile Sales shall not have hours of operation exceeding ~~four (4)~~ ~~seven (7)~~ hours in a twenty four (24) hour period.
5. Signage shall be permitted for Temporary Mobile Sales consistent with Section 60.40.15.12 of this Code.

6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.
7. Suitable receptacles for disposal of trash, as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the temporary use in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Mobile Sales. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Mobile Sales.
8. Products for sale shall be removed at the end of each business day.
9. ~~Tables and chairs available for customer seating shall be limited to an area not to exceed eight-feet by eighteen-feet and shall not obstruct or occupy minimum required parking spaces unless it can be demonstrated that the minimum required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.~~
- 9.10 The Director may impose conditions necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
- 40.11 The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Mobile Sales on the surrounding property and use.

- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 180 days ~~one year~~ of the date of approval. ~~After one year, the permit shall expire unless the permit is renewed pursuant to the provisions for Permit Renewal as stated under Section 50.97.~~
- H. Extension of a Decision. Previous approvals of Temporary Mobile Sales shall not be extended.

2. Temporary Non-Mobile Sales.

- A. Threshold. An application for Temporary Non-Mobile Sales shall be required when the following threshold applies:
1. The sales of holiday vegetation and fireworks, circuses, carnivals, animal rides and other similar activities.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Non-Mobile Sales. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Non-Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Non-Mobile Sales application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
 5. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.
 6. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district- **and complies with all applicable use restrictions of the zone**
 7. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.50.

8. The proposal does not involve use of a permanent building.
9. The proposal shall not obstruct or occupy permanent required parking spaces unless it can be demonstrated that the permanent required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.
10. The site of the proposal has safe vehicle and pedestrian circulation consistent with Section 60.55 (Transportation Facilities) of this Code.
11. ~~The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use. The proposed hours of operation for the temporary use are allowed in that zoning district and do not require Conditional Use approval.~~
12. The site of the proposal has adequate parking facilities to accommodate the anticipated needs consistent with Section 60.30 (Off-Street Parking) of this Code.
13. Temporary Non-Mobile Sales has not occurred more than twice on the same site in the same calendar year.
14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Temporary Non-Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Non-Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness); ~~and any other information identified through a Pre-Application Conference.~~

Section 2: The Development Code, Ordinance No. 2050, effective through Ordinance 4498, Chapter 50 - Procedures, is amended to add a new section, Section 50.97., to read as follows:

50.97. Permit Renewal for Temporary Use – Mobile Sales

1. Only a decision that approves or conditionally approves a permit for Temporary Use – Mobile Sales, as described under Section 40.80.15.1., is eligible for renewal under this Section.
2. To be eligible for permit renewal, the applicant must submit an application for Temporary Use – Mobile Sales and fee before the existing permit expires.
3. Only the applicant who received approval for the last permit issued for the same activity on the same site may apply for and receive permit renewal.
4. Permit renewal may be granted if the Director finds as follows:
 - A. That all conditions of past permit approval have been satisfied.
 - B. That all existing site conditions remain the same as when the permit was first issued.
 - C. Applicable provisions of the Development Code have not changed to the extent that such change necessitates further review of the applicant's proposal under a new permit for Temporary Use - Mobile Sales.
 - D. That all other required licenses and permits have been renewed.
5. The Planning Director may impose other conditions of permit renewal in addition to the conditions previously issued for Temporary Use Mobile Sales approval. Where the Planning Director has imposed other conditions for permit renewal, or denied permit renewal, the applicant may appeal the decision pursuant the proceedings as described in Section 50.60 of this Code.
6. An application for Permit Renewal is subject to the 120 day requirement pursuant to ORS 227.178.
7. Permit Renewal shall expire after one year and shall be allowed for no more than two consecutive periods.

PAGE LEFT BLANK

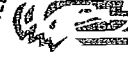
WORDING REVISIONS TO ORD. 4513
AT FIRST READING ON 6-22-09.

6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.
 7. Suitable receptacles for disposal of trash, as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the temporary use in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Mobile Sales. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Mobile Sales.
 8. Products for sale shall be removed at the end of each business day.
 9. **Tables and chairs available for customer seating shall be limited to area not to exceed eight-feet by eighteen-feet and shall not obstruct or occupy permanent minimum required parking spaces unless it can be demonstrated that the permanent minimum required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.**
 - 9.10. The Director may impose conditions necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 - 40.11. The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Mobile Sales on the surrounding property and use.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within ~~180 days~~ **one year** of the date of approval. **After one year, the permit shall expire unless the permit is renewed pursuant to the provisions for Permit Renewal as stated under Section 50.97.**
- H. Extension of a Decision. Previous approvals of Temporary Mobile Sales shall not be extended.

ADDRESS SERVICE
REQUESTED

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE

PITNEY BOWES
02 1A \$ 00.72⁰
0004373521 JUL 20 2009
MAILED FROM ZIP CODE 97005



City of Beaverton
Community Development Department
4755 S.W. Griffith Drive
P.O. Box 4755
Beaverton, OR 97076

TO:

**PLAN AMENDMENT SPECIALIST
DEPT LAND CONSERVATION AND DEV
635 CAPITOL ST NE SUITE 150
SALEM OR 97301-2540**

DDARANF 97301 