



Oregon
Theodore R. Kulongoski, 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

11/18/2013

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

FROM: Plan Amendment Program Specialists

SUBJECT: City of Gresham Plan Amendment
DLCD File Number 004-13

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, December 04, 2013

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged

Cc: Brian Martin, City of Gresham
Gordon Howard, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> N



FORM

2

DLCD

Notice of Adoption

☐ In person ☐ electronic ☐ mailed
DATE
STAMP

DEPT OF

NOV 14 2013

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final**

Ordinance is signed by the public Official Designated by the jurisdiction
and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Gresham**Local file number: **CPA 12-196**Date of Adoption: **11/5/2013**Date Mailed: **11/13/2013**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 7/16/2013☒ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

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

Creates new Code for Food and Beverage Carts to determine when and where they are allowed; provides complete and clear development standards for these uses including those related to safety, aesthetics, circulation and signage.

Does the Adoption differ from proposal? Yes, Please explain below:

See summary of changes attached.

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
☒ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Metro

Local Contact: **Brian Martin, Comprehensive Planner** Phone: (503) 618-2266 Extension:
Address: 1333 NW Eastman Parkway Fax Number: - -
City: Gresham Zip: 97030- E-mail Address:
Brian.Martin@GreshamOregon.gov

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

CITY OF GRESHAM

Urban Design & Planning
1333 NW Eastman Pkwy
Gresham, OR 97030

CITY OF
NOV 14 2013

I, Tammy J. Richardson hereby certify
on November 13, 2013, I mailed the
attached Notice of Decision to the
parties noted below:

FILE NO: CPA 12-196
Food & Beverage Carts

DLCD
Plan Amendment Specialist
635 Capitol St. NE, Ste. #150
Salem, OR 97301-2540

METRO
Growth Mgmt. Services
600 NE Grand Avenue
Portland OR 97232-2736

Carol Rulla
5162 SE 28th Dr.
Gresham OR 97080

Ashley Sandell
17980 Davis St.
Sandy OR 97055

Dean Hurford
335 NE LaMesa Ct.
Gresham OR 97030

Catherine Nicewood
17401 NE Couch St.
Portland OR 97230

Tammy J. Richardson
Signed 11/13/2013
Dated _____



CITY OF GRESHAM
URBAN DESIGN & PLANNING
1333 NW EASTMAN PKWY
GRESHAM OR 97030

NOTICE OF FINAL DECISION

November 13, 2013

On November 5, 2013, the Gresham City Council Approved the application of **City of Gresham (Council Order No. 645)** amending the Gresham Community Development Code regarding **Food and Beverage Carts**.

The record for this project is maintained at Gresham City Hall, City of Gresham **File No. CPA 12-196**, and may be reviewed at the City's Urban Design & Planning office Monday through Friday, 8:00 AM to 5:00 PM.

An appeal of this decision may be filed with the Land Use Board of Appeals (LUBA) within 21 days of this Notice of Decision. LUBA has the jurisdiction to review all governmental land use decisions. An appeal of a land use decision must conform to the procedures and requirements of LUBA. They may be contacted at:

LUBA
550 Capitol Street, NE – Suite #235
Salem, Oregon 97301-2552
(503) 373-1265

Food & Beverage Carts

Revised threshold for when a permit is needed. Added a footnote that limited Commercial Stand activities at Institutional Sites to larger sites with institutional uses that already allow accessory commercial uses. Modified the number of new rules existing carts must follow, including deleting requirements for staying out of the clear vision area, providing adequate parking and providing lighting. Deleted requirement that a change in ownership would require the cart to comply with all the rules as if it were a new application. Limited structures to be used by customers to tents or canopies that comply with the Building Code and Fire Code.

BEFORE THE CITY COUNCIL OF THE
CITY OF GRESHAM

IN THE MATTER OF AMENDMENTS TO VOLUME)	Order No. 645
3 DEVELOPMENT CODE OF THE GRESHAM)	
COMMUNITY DEVELOPMENT PLAN, REGARDING)	CPA 12-196
THE DEVELOPMENT CODE IMPROVEMENT)	
PROJECT AND FOOD AND BEVERAGE CARTS)	

On October 1, 2013, the City Council held a public hearing to take testimony on amendments to Volume 3, Development Code, of the Gresham Community Development Plan as it relates to the Development Code Improvement Project and food and beverage carts.

The hearing was conducted under Type IV procedures. Mayor Shane T. Bemis presided at the hearing.

The Council closed the public hearing at the October 1, 2013 meeting, and a final decision was made at the November 5, 2013 meeting.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of the Order.

The Council orders that these amendments are approved, and adopts the standards, findings, conclusions and recommendations as stated in the attached Planning Commission Recommendation Order and staff reports.

Dated: Nov. 5, 2013



Erik Kvarsten
City Manager



Shane T. Bemis
Mayor

BEFORE THE PLANNING COMMISSION OF THE
CITY OF GRESHAM

TYPE IV RECOMMENDATION ORDER

CPA 12-196

A Type IV Legislative Public Hearing was held on August 26, 2013, to consider proposed amendments to Volume 3, Development Code, of the Gresham Community Development Plan related to processes and standards for **Food and Beverage Carts**.

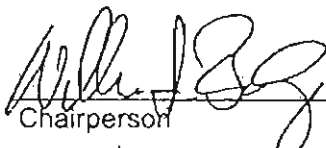
The Planning Commission closed the public hearing at the August 26, 2013 meeting, and a final recommendation was made on August 26, 2013.

William Bailey, Chair, presided at the hearing.

A permanent record of this proceeding is to be kept on file in the Gresham City Hall, along with the original of this Type IV Recommendation Order.

The Planning Commission recommends **Adoption** of the proposed Development Code amendment to the City Council based on the findings, conclusions and recommendations of the Staff Report and the Addendum Staff Report dated August 26, 2013, with the following changes:

- Figure 10.1640(S) Street-facing Service – remove the service window on the short side of the diagram and rotate 90 degrees.
- Delete first sentence of Section 10.1640(S) and replace with the following: "For sites with more than one Food and Beverage Cart, at least one-third of the carts within 25 feet of each street right of way shall have a primary service window facing the street. If the cart is within 25 feet of more than one street, it shall face its primary service window to the primary street. The primary street shall be the street with the highest classification or as determined by the Manager."


Chairperson

9/9/13
Date

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

STAFF REPORT TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT **FOOD AND BEVERAGE CARTS**

To: Gresham Planning Commission

From: Jonathan Harker, AICP, Urban Design & Planning Director
Brian Martin, AICP, LEED AP, Associate Planner

Hearing Date: Aug. 26, 2013

Report Date: Aug. 15, 2013

File: CPA 12-196

Proposal: To adopt comprehensive plan amendments to Volume 3 (Development Code) of the Community Development Plan with text amendments relating to the Development Code Improvement Project-6 regarding Food and Beverage Carts.

Exhibits: 'A' – Draft Amendments to Volume 3, Gresham Community Development Code

Recommendation: Staff recommends adoption of the proposed comprehensive plan amendments.

EXECUTIVE SUMMARY

Background

This Development Code Improvement Project (DCIP) component, which is on the 2013 Council Work Plan, seeks to address problems with rules and processes for Food and Beverage Carts. The DCIP is a multi-year project to enhance the effectiveness of the Development Code.

Rules regarding carts are currently found in Development Code Section 10.1400: Temporary Uses and are included under the "Commercial Stands" category.

The purpose of the DCIP Food and Beverage Carts project is to develop clear and objective standards and review processes that:

- Provide the appropriate level of review for Food and Beverage Carts.
- Update rules for the time, place and manner in which carts operate.
- Improve standards for cart and property appearance.
- Protect public health, safety and the environment consistent with federal, state, regional and local codes.
- Provide enforceable rules that are clear to City staff and that can be clearly communicated to food cart operators and property owners.

This project began in February 2012. The planning process followed the following steps:

- Developing a work plan and public participation plan.
- Conducting research and analysis to identify issues and opportunities.
- Developing alternative approaches to the issues.
- Selecting a preferred approach.
- Drafting amendments to the Comprehensive Plan for the legislative adoption process.

Public input was sought at each stage of the process. This included community workshops, open houses, Development Group meetings, stakeholders group meetings, interviews and meetings with the Planning Commission and City Council.

Proposed Comprehensive Plan Amendment Overview

Text changes to the Community Development Plan are proposed. The format of the attached Exhibit 'A' is a ~~strikeout~~/underline version with comments inserted into the document to help explain the rationale for each proposed change. The overview provided below summarizes the changes.

The proposed amendments would:

- **Use category:** Create a new category and new Code section for Food and Beverage Carts.
- **Definition:** Provide a clear definition for carts that will assist Code users in determining what activities fall under the new Code section.
- **Permitted Uses:** Clarify where carts are allowed.
- **Review processes:** Update approval and renewal processes to provide the appropriate amount of review considering cart impacts and longevity.
 - The initial review on a site will be a Type II review with public notice required.

- Replacement carts would be reviewed using a Type I review, which is a staff review with no public notice required. (If the number of carts in the original Type II review is exceeded, a new Type II review will be required.)
- Permits will be updated automatically each year. Additional inspections will help to ensure compliance with the standards.
- **Duration:** Allow Food and Beverage Carts on an interim basis. Cart permits will last one year. They will be automatically renewed, unless a Code Enforcement action occurs against the cart. (Code inspections are expected to occur annually and when complaints are filed.)
- **New rules to address issues:** Provide basic development rules to enhance safety, compatibility and aesthetics. These include:
 - **Safety:** Rules regarding lighting customer areas; adequate vision clearance at corners, ingress and egress; preventing tripping hazards; ensuring automobile areas are separate from pedestrian areas; providing adequate queuing distance at drive-throughs so cars do not back into the street; and appropriate fire separation between carts.
 - **Compatibility:** Setbacks and buffer distances between carts and the property line; adequate parking; and sanitation rules, such as requiring bathrooms and proper disposal of garbage and used kitchen water.
 - **Aesthetics:** Signage rules; limiting cart types and structure types to ensure higher design quality; ensuring some carts face the street when multiple carts are on a site; and requiring maintenance of carts and accessory items.

STAFF REPORT ORGANIZATION

- Sections I and II identify those current Community Development Plan procedures and policies that apply to the proposal.
- Section III identifies the applicable Metro Urban Growth Management Functional Plan (UGMFP) titles that apply to the proposal.
- Section IV identifies applicable Statewide Planning Goals that apply to the proposal.
- Section V contains specific findings of fact that detail how the proposal is consistent with Sections I through III:
 - Subsection A is findings of fact for the Community Development Plan procedures.
 - Subsection B is findings of fact for the Community Development Plan policies.
 - Subsection C is findings of fact for the Urban Growth Management Functional Plan Titles.
 - Subsection D is findings of fact for the Statewide Planning Goals.
- Sections VI and VII summarize staff conclusions and recommendations.
- Exhibit 'A' includes proposed amendments to Volume 3, Development Code, as well as commentary. The commentary provides additional findings for this proposal.

SECTION I APPLICABLE COMMUNITY DEVELOPMENT CODE PROCEDURES

- Section 11.0201** Initiation of an Application
- Section 11.0203** Classification of Applications by Procedure
- Section 11.0204** Review Authorities

Section 11.0600 Type IV Procedure – Legislative
Section 11.1000 Public Hearings

SECTION II APPLICABLE COMMUNITY DEVELOPMENT PLAN GOALS & POLICIES

Section 10.014 Land Use Policies and Regulations
Section 10.100 Citizen Involvement
Section 10.415 Food Access

SECTION III APPLICABLE METRO URBAN GROWTH FUNCTIONAL PLAN TITLES

Title 8 Compliance Procedures

SECTION IV STATEWIDE PLANNING GOALS

Goal 1 Citizen Involvement
Goal 2 Land Use Planning

SECTION V FINDINGS OF FACT

The proposed Community Development Plan amendments attached as Exhibit 'A' are consistent with all applicable procedures, goals and policies of the Community Development Plan and applicable titles of the Metro Urban Growth Management Functional Plan as indicated in the following findings.

A. Community Development Code Procedures

1. Section 11.0201 – Initiation of an Application

This section provides that only the City Council may initiate a Type IV legislative application to amend the Map or Code of the Gresham Community Development Plan. This project was initiated by the City Council when it adopted the 2012 and 2013 Council Work Plans, which included the Development Code Improvement Project-6. The 2013 Council Work Plan was adopted on March 5, 2013.

2. Sections 11.0203 and 11.0204 – Classification of Applications and Review Authorities

These sections provide that Type IV procedures are legislative and typically involve the adoption, implementation or amendment of policy by ordinance and that they generally apply to a relatively large geographic area containing many property owners. They also provide that the Planning Commission provide a recommendation on the amendments and the City Council be the decision-making authority regarding the amendments. This project meets those conditions, is being processed under the Type IV procedures and will be heard by the City Council.

3. Section 11.0600 – Type IV Legislative Procedures

For a Type IV Comprehensive Plan Amendment, this section requires a submittal to the Department of Land Conservation and Development (DLCD) at least 45 days prior to the Planning

Commission hearing. This references a former DLCD requirement. The Department of Land Conservation and Development, in Section 660-018-0020(1), currently requires that a local government submit changes at least 35 days prior to an evidentiary hearing. The notice was sent July 16, 2013, which meets the 35-day requirement. This section also requires that hearings be scheduled, a notice published in a newspaper of general circulation in the City and a copy of the decision be mailed to those required to receive such notice. Notice of public hearing for these proposed text amendments has been published in the Gresham Outlook as required by this section.

This section also requires that the Planning Commission hold a public hearing and make a recommendation to the Council for an amendment to the Community Development Code and the Community Development Plan. The Council shall hold another public hearing and make a final decision. Interested persons may present evidence and testimony relevant to the proposal. The Planning Commission will make a recommendation, and the Council will make a decision that will be based on findings of fact contained in this report and in the hearing record. A decision will be sent to those who participated in the hearings. A decision shall be made accompanied by findings and an order.

4. Section 11.1000 - Public Hearings

This section provides for a hearing process consistent with Section 11.1000. Both the Planning Commission and the City Council, at public hearings in conformance with provisions of this section, will consider this proposal.

B. Community Development Plan Goals and Policies (Volume II)

This section identifies the applicable Community Development Plan goals and policies. The text (*italicized*) of the policy is followed by corresponding findings and conclusions. The applicable policies are grouped by general categories.

I. General Goals & Policies

Section 10.014 - Land Use Policies and Regulations

Section 1: Land Use Policies and Regulations.

Goal: Maintain an up-to-date Comprehensive Plan and implementing regulations as the legislative foundation of Gresham's land use program.

Policy 1: The City's land use program will be consistent with state and regional requirements but also shall serve the best interests of Gresham.

Policy 2: The City's land use regulations, actions and related plans shall be consistent with and implement the Comprehensive Plan.

Policy 9: The City shall require new development to address the need for compatibility between itself and adjacent land uses to minimize conflicts between differing uses and building types.

Policy 10: The City shall require all development to conform to site design/development standards including those necessary to accomplish the objectives of specific sub-area plans.

Policy 20: The City shall periodically review and update the Comprehensive Plan text and the Community Development Plan Map(s) to ensure they remain current and responsive to community needs; provide reliable information and dependable, factually based policy direction, and conform to applicable state law, administrative rules and regional requirements.

Policy 21: Council may, upon finding it is in the overall public interest, initiate legislative processes to change the Comprehensive Plan text and Community Development Plan Map(s) and Development Code.

Findings

These general Goals and Policies establish the City's intent to use its Comprehensive Plan (Gresham Community Development Plan) as the basis for appropriate planning processes and resulting land use plans.

The proposed amendments are part of the Development Code Improvement Project, which was requested by the Gresham City Council to provide updates to Gresham's Community Development Code regarding Food and Beverage Carts. The project was initiated by the Council by its inclusion in the 2012 and 2013 Council Work Plans. The 2013 Council Work Plan was adopted on March 5, 2013.

Gresham's Comprehensive Plan has been found in compliance with state and regional requirements, and the proposed amendments are also in compliance with Gresham's code and state and regional requirements, as described in Sections I, II, III, IV and V of this staff report.

The proposed amendments were sent to the state Department of Land Conservation and Development (DLCD) and Metro for review. The City received no communication from DLCD. The City received no comments from Metro.

The proposed amendments provide clear and complete standards that determine how and where carts operate and encourage compatibility among carts and adjacent properties. Standards include site design standards and rules regarding the appearance, signage, health and safety.

The proposed amendments were created during a planning process that involved residents, property owners, business owners, cart operators, elected and appointed officials and other interested parties.

Conclusions

Goal 10.014 is addressed by these proposed amendments that clarify and revise regulations so the Development Code is up to date and consistent with the Comprehensive Plan.

Policy 1, 2, and 21: The proposed amendments are part of the Development Code Improvement Project, which was requested by the Gresham City Council to provide an update to regulations regarding food and beverage carts. The City Council initiated the project by adopting it in its 2012 and 2013 Work Plans. Gresham's Comprehensive Plan has been found in compliance with state and regional requirements, and the proposed amendments also are in compliance with Gresham's code and state and regional requirements, as described in Sections I, II, III, IV and V of this staff report. The proposed amendments were created during a planning process that involved residents, property owners, business owners, elected and appointed officials and other interested parties.

Policy 9 and 10: The proposed amendments include complete and clear standards for a Food and Beverage Carts, which in the past had few standards and standards that in some cases lacked clarity. The proposed amendments provide rules that enhance compatibility, such as setbacks.

Policy 20: The Temporary Uses section, which currently regulates food carts, has not received significant updates for many years. The City has identified Code issues with the section, and these proposed amendments address those issues. The City's outreach included community forums, stakeholders group meetings, interviews and meetings with the Planning Commission.

The proposal is consistent with the applicable general goals and policies listed in this section.

2. Citizen Involvement Goals & Policies

Section 10.100 - Citizen Involvement

Goal: The City shall provide opportunities for citizens to participate in all phases of the planning process by coordinating citizen involvement functions; effectively communicating information; and facilitating opportunities for input.

Policy 1: The City shall ensure the opportunity for citizen participation and input when preparing and revising policies, plans and implementing regulations.

Policy 4: The city shall provide opportunities for meaningful citizen involvement on site development proposals.

Policy 5: The City shall keep citizens informed of issues confronting the City.

Policy 6: The City shall ensure that technical information necessary to make policy decisions is readily available.

Policy 8: The City shall ensure that citizen concerns are considered in land use decisions and shall provide feedback to the public regarding how these concerns have impacted decisions.

Policy 10: The City shall ensure the opportunity for the public to be involved in all phases of planning projects and issues.

Policy 11: The City shall ensure that the public has complete and timely access to all public information concerning land use projects and issues. This includes private development proposals once they are in the formal application process.

Findings

The public involvement goals and policies establish the City's intent that its citizens have opportunities throughout a planning project to be informed and to affect proposals.

The issues that led to the proposed code amendments were identified in consultation with staff, the Planning Commission, potential developers, property owners, food cart operators and City residents.

City staff members conducted public outreach, including the following meetings:

Venue	Public forum or open house	Planning Commission	City Council
Dates	July 11, 2012	Aug. 27, 2012	Oct. 9, 2012
	Nov. 7, 2012	Nov. 26, 2012	April 9, 2013
	Jan. 29, 2013	Feb. 11, 2013	June 11, 2013
	May 6, 2013	May 13, 2013	
	June 26, 2013	July 22, 2013	

These meetings occurred during the different phases of the project.

In addition, frequent email updates were sent to 300-plus people on an interested parties email list. The emails often referenced the latest documents available, which were posted on the City's website and were available at City Hall. Staff interviewed property owners, food cart operators and business owners

regarding the issues and alternatives. Presentations were made to the Development Group, Historic Downtown Gresham Business Association and Rockwood Business Coalition.

The proposed amendments revise the City procedures to require Type II applications with public notice for applications that require more discretion have potentially greater impacts and/or that will remain on the site the longest. This will ensure adequate public notice. The updated procedures will provide opportunities for meaningful public input.

Conclusion

The Citizen Involvement Goal (10.100) and its policies are met by the combination of workshops, e-mails, and meetings as well as providing information on the proposal on the City website. Policy 4 and 11 are met by providing procedures with meaningful public notice and input provisions.

The proposal is consistent with the applicable citizen involvement goals and policies listed in this section.

Section 10.415 – Food Access

Goal: The built environment shall provide for a variety of food options accessible to residents.

Policy 4. Examine other modes of providing access to food options in a manner compatible with surrounding properties.

Findings

Allowing Food and Beverage Carts to sell food with appropriate compatibility standards provides additional ways Gresham residents can gain access to food options.

Conclusion

The proposed amendments support the policy of providing additional food access options.

C. Metro Urban Growth Management Functional Plan

Title 8 Compliance Procedures

Findings

Section 3.07.820 of this title requires that at least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation that the City submit the proposed amendments to Metro. Metro may review the amendments and can request that the City provide an analysis of compliance with the Functional Plan.

The City submitted the proposed amendments to Metro at the same time as the notice was submitted to the state Department of Land Conservation and Development. Metro has not contacted the city regarding the proposed amendments or requested an analysis.

Conclusion

The City submitted the proposed amendments to the state and Metro. Because Metro has not requested an analysis of compliance, it is assumed the proposed amendments are consistent with the Functional Plan.

D. Statewide Planning Goals

Findings

Statewide Planning Goal 1 requires that cities "provide the opportunity for citizens to be involved in all phases of the planning process."

Statewide Planning Goal 2 requires cities to "establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. This shall result in land use plans and implementation measures that are consistent with the land use plans."

A thorough public input process was conducted in the creation of the proposed amendments, as noted in Section V.B.2 of this report.

The City has a state-acknowledged Comprehensive Plan. Section V of this report describes findings and conclusions that the proposed Comprehensive Plan Amendments are consistent with applicable procedures and applicable goals and policies of the City's Comprehensive Plan.

Conclusion

The proposed amendments comply with Statewide Planning Goals 1 and 2.

SECTION VI CONCLUSION

The proposed Comprehensive Plan amendments attached as Exhibit 'A' are consistent with applicable Goals and Policies of the Community Development Plan, the applicable Development Code procedures of the Community Development Plan; applicable Metro Urban Growth Management Functional Plan Code; and Statewide Planning Goals as indicated by findings contained or referenced in Section V of this report.

SECTION VII RECOMMENDATION

Staff recommends **adoption** of the proposed comprehensive plan amendments to the City Council as contained in the attached Exhibit 'A'.

End of Staff Report

CITY OF GRESHAM

MEMORANDUM

URBAN DESIGN & PLANNING

ADDENDUM TO THE STAFF REPORT TYPE IV HEARING — COMPREHENSIVE PLAN AMENDMENT DEVELOPMENT CODE IMPROVEMENT PROJECT-6

FOOD AND BEVERAGE CARTS

To: Gresham Planning Commission

From: Jonathan Harker, AICP, Urban Design & Planning Director
Brian Martin, AICP, LEED AP, Associate Planner

Hearing Date: Aug. 26, 2013

Report Date: Aug. 26, 2013

File: CPA 12-196

Since the staff report and Council Bill were distributed to the Planning Commission for its hearing on August 26, 2013, staff identified an omission related to one proposed amendment.

Section 4 of the Council Bill that adds Article 10.1600 lists in Section 10.1640(A)(2) the standards that apply to Food and Beverage Carts currently in operation with a valid Temporary Use permit as of Dec. 5, 2013. Section 10.1640(Z) was omitted from this list of items that should apply to Food and Beverage Carts currently operating. Section 10.1640(Z) provides standards for shelter provided for customers use. The standards ensure shelter is safe and attractive by requiring carts to use tents and canopies that comply with Building and Fire Codes. This will improve the safety and appearance of cart operations in Gresham while ensuring carts with valid permits can continue to operate.

Issue: Section 10.1640(A)(2) fails to apply new standards for customer shelters to current carts with a valid permit.

Findings: Section 10.1640(A) applies new standards to current Temporary Uses operating food and beverage carts. To ensure compatibility, safety and improve appearance of existing carts while allowing them to keep operating the proposed amendments apply only a portion of the new rules to currently operating carts that have a valid permit. Section 10.1640(Z) was omitted from the list. It requires shelters used by customers to be tents and canopies that meet Building and Fire Code provisions, including those for anchoring, wind loads, snow loads and fire resistant materials. This will improve safety for customers. It also will improve appearance by not allowing a myriad of improvised structures that may not be solidly or attractively built. This also helps ensure compatibility with adjacent land uses and helps the City meet design goals in its Comprehensive Plan and sub-area plans.

Recommendation: Staff recommends adding Section 10.1640(Z) to the list in Section 10.1640(A)(2) that applies new standards to carts currently operating with a valid permit.

Proposed new language is double-underlined;
Proposed deleted language is ~~stricken~~.

CB 08-13

ORDINANCE NO. 1732

AMENDMENTS TO VOLUME 3 DEVELOPMENT CODE OF THE GRESHAM
COMMUNITY DEVELOPMENT PLAN, REGARDING THE DEVELOPMENT CODE
IMPROVEMENT PROJECT AND FOOD AND BEVERAGE CARTS

Section 1. Volume 3, Section 3.0000 is amended as follows:

**SECTION 3.0100
DEFINITIONS**

3.0103 General Terms and Definitions

Food and Beverage Carts. The sale of goods or merchandise from a location outside of a building in a mobile unit where at least 50 percent of the sales is a combination of food and beverages. Examples include coffee carts and carts or trailers designed to serve food. Exceptions include residential lemonade stands and similar short-term sales associated with residential uses.

Section 2. Volume 3, Section 5.0500 is amended as follows:

**SECTION 5.0500
OPEN SPACE OVERLAY DISTRICT**

5.0520 Permitted Land Uses

A. The following uses are permitted in the Open Space Overlay District:

13. Temporary, Intermittent and Interim Uses and Food and Beverage Carts

Section 3. Volume 3, Section 9.0800 is amended as follows:

SECTION 9.0800 PARKING

Bicycle Parking Standards

9.0830 Bicycle Parking Design Standards

G. Exemptions. The following uses are exempted from Bicycle Parking requirements:

- Temporary, Intermittent and Interim Uses
- Food and Beverage Carts
- Agricultural
- Mini-storage facilities for household and consumer goods.
- Home Occupations

Section 4. Volume 3, Section 10.1600 is added as follows:

SECTION 10.1600 FOOD AND BEVERAGE CARTS

General

This section applies to Food and Beverage Carts. The definition for Food and Beverage Carts is found in Article 3.

Permitted Uses

10.1620 Permitted Uses

Table 10.1620 identifies where Food and Beverage Carts are allowed. They are allowed in addition to the uses normally allowed in the underlying land-use district.

- P = Permitted use.
- L = Use is permitted, but is limited in the extent to which it may be permitted.
- NP = Use not permitted.

Table 10.1620: Where Food and Beverage Carts are permitted

	<u>Low-density residential districts</u> ¹	<u>Multi-family districts</u> ²	<u>Commercial and mixed-use districts</u> ³	<u>Industrial districts (GI, HI, RTI-SW, IND-SW)</u>	<u>Sites of approved institutional uses</u> ⁴
<u>Food and Beverage Carts</u> , ^{5,6}	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>L</u> ⁷

Table 10.1620 Notes:

- 1 LDR-5, LDR-7, TLDR, TR, LDR-PV, VLDR-SW, LDR-SW, THR-SW.
- 2 MDR-12, MDR-24, CMF, DRL-1, MDR-C, HDR-C, MDR-PV, HDR-PV.
- 3 Includes districts that allow commercial that are not listed in footnote 1 or 2 and that are not listed as industrial districts in Table 10.1420. These are CC, CMU, DCC, DMU, DRL-2, DTM, DEM, DCL, HDR-C, MC, MDR-C, MUE-PV, NC-PV, OFR, RTC, SC, SC-RJ, TC-PV, TDH-C, TDM-C, VC-SW, EC-PV, GC, NC, NC-SW.
- 4 Permitted uses are allowed on approved institutional sites even if they fall under another category in this table where the Food and Beverage Cart use is not permitted.
- 5 Drive-through Food and Beverage Carts are permitted only where drive-through Business and Retail Services and Trade uses are permitted.
- 6 Food and Beverage service is permitted as an accessory use to some Temporary, Intermittent and Interim Uses, as described Section 10.1400 and the definitions for those uses. When conducted in these situations, the food service activity is exempt from the standards in Section 10.1600.
- 7 Permitted for institutions with a minimum site size of 10 acres if consistent with commercial activity allowed as part of the Institutional Classifications in Section 3.0270. For example, "support commercial" is listed as an accessory use in Section 3.0276 Schools.

Development Standards

10.1630 Standards and Review Processes

Table 10.1630 designates time limits and review processes for Food and Beverage Carts. Applications shall be reviewed as specified in Article 11.

- A. Food and Beverage Carts shall be required to acquire a development permit if they remain on one site more than four hours in any one day.

Table 10.1630: Permit duration, renewals, review processes and additional standards

	<u>Maximum permit duration</u>	<u>Are renewals permitted?</u>	<u>Review process</u>	<u>Additional standards</u>
<u>Food and Beverage Carts</u>	<u>1 year</u>	<u>Yes</u> ¹	<u>Type II, new or expanding site</u> ² <u>Type I, replacement cart on previously approved site</u> ³	<u>Section 10.1640</u>

Table 10.1630 Notes:

- 1 Food and Beverage Carts permits would renew automatically with the business license except when the use has been subject to a City Code Compliance enforcement action to address an uncorrected violation as provided for in Gresham Revised Code Article 7.50. Enforcement actions include but are not limited to civil penalties, citations and abatement. If an enforcement action has occurred, the use shall be reviewed at the time of renewal following the Type II process in the same manner as an application for a new permit. In such a case, the enforcement action shall be considered during the renewal application review, such as when determining conditions of approval.

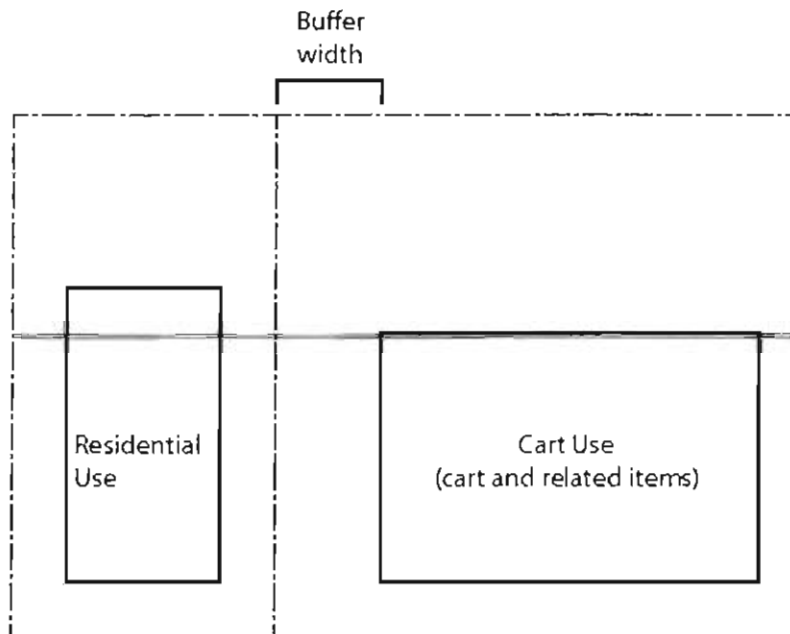
2 The initial review for Food and Beverage Carts on a site shall be a Type II review. This would apply the first time any Food and Beverage Cart application was filed for a site. In addition, a Type II process is required if additional uses occupy the site, such as a site adding additional Food and Beverage Carts beyond the number approved in the first application, such as a site adding a third Food and Beverage Cart on a site approved for two carts.

3 Food and Beverage Cart can replace a previously approved Food and Beverage Cart under a Type I process, as long as the permit obtained through a Type II review is active at the time of the Type I permit or was active within the last 12 months prior to the Type I permit. Applications from new owners shall comply with the latest Development Code standards.

10.1640 Standards for Food and Beverage Carts

- A. Uses currently in operation with a valid Temporary Use permit as of Dec. 5, 2013, that are mobile units with at least 50 percent of sales coming from food and beverages can be approved under the standards in effect at the time their last permit prior to Dec. 5, 2013, was issued, except the following new standards apply and supersede the standards in effect before Dec. 5, 2013:
 - 1. Review processes as specified in Section 10.1630; and
 - 2. Section 10.1640(G), (H), (J), (K), (L), (M), (V) and (Z).Temporary Uses currently in operation also have the option of applying under the standards in effect at the time of application.
- B. Food and Beverage Carts shall be on a paved surface such as but not limited to concrete, asphalt, pavers and other surfaces as approved by the Manager. If new paved surface is added to a site to accommodate a cart, the parking area shall comply with applicable parking lot standards, including those in Section 9.0800.
- C. Carts shall not occupy pedestrian walkways or required landscape areas.
- D. Carts shall not occupy parking needed to meet the minimum bicycle or automobile parking requirement for another use under Section 9.0800. Blocking automobile access to parking spaces shall be considered occupying the spaces.
- E. If a site where a cart is located abuts a lot with a residential use, the cart use shall meet the narrowest minimum buffer width required in Section 9.0100 for a proposed commercial use as shown in Table 9.0111(B). The Option 2 buffer width, when available, shall satisfy this standard. Buffer trees, shrubs and screening from that table are not required. Buffer widths shall be allowed to overlap with setback requirements.

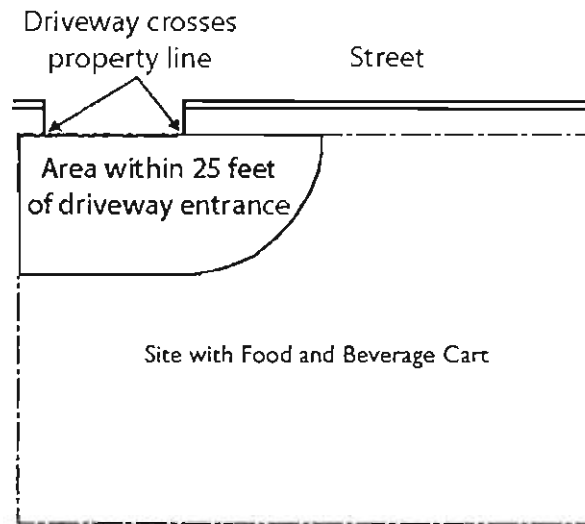
Figure 10.1640(E): Buffer Width



- F. The use shall provide adequate vision clearance as required by Section 9.0200. (Clear vision exceptions in land-use districts and Plan Districts still apply.)
- G. Ingress and egress shall be safe and adequate when combined with the other uses of the property as required by Appendix 5.
- H. Uses shall not create tripping hazards in pedestrian or vehicular areas with items such as cords, cables and pipes.
- I. Awnings attached to Food and Beverage Carts shall have a minimum of 7 feet of clearance between the ground and the awning to allow access for pedestrians under the awning.
- J. Cart signage:
 - 1. Shall comply with applicable requirements of Appendix 6.
 - 2. Uses shall be required to post City Food and Beverage Cart permits; City business licenses; and Multnomah County Health Department food service licenses in a location visible to customers.
- K. Unless otherwise specified in this section, Food and Beverage Carts shall be exempt from a finding of adequate public facilities unless it is determined that the proposed use exceeds the capacity of existing public facilities or causes unsafe conditions.
- L. The Manager may impose on any approval conditions intended to minimize adverse impacts created by the use on surrounding property and uses.
- M. Carts are exempt from land-use district density, floor-area ratio and Design District design guidelines and standards.
- N. Carts shall meet the following dimensional requirements:
 - 1. Land-use district minimum setbacks shall be met for the site perimeter.

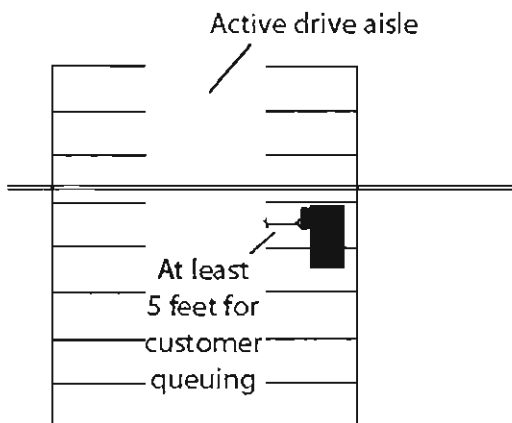
2. Carts shall not be located within 25 feet of an active driveway entrance as measured in all directions from where the driveway enters the site at the edge of the street right of way, as shown in Figure 10.1640(N)(2).

Figure 10.1640(N)(2): Distance from active driveway entrance



3. Carts shall be located at least 3 feet from the right of way or back of sidewalk, whichever provides the greater distance from the right of way.
4. Carts shall provide at least 5 feet between service windows or other customer service points and an active drive aisle. The distance shall be measured perpendicular to the service window/point as shown in Figure 10.1640(N)(4).

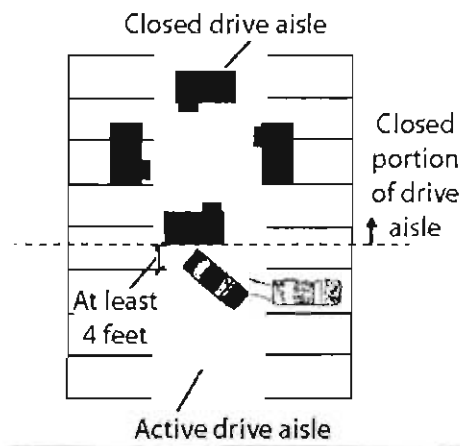
Figure 10.1640(N)(4): Space between customer service point and active drive aisles



5. Carts shall remain at least 10 feet away from other Food and Beverage Carts or Commercial Stands.

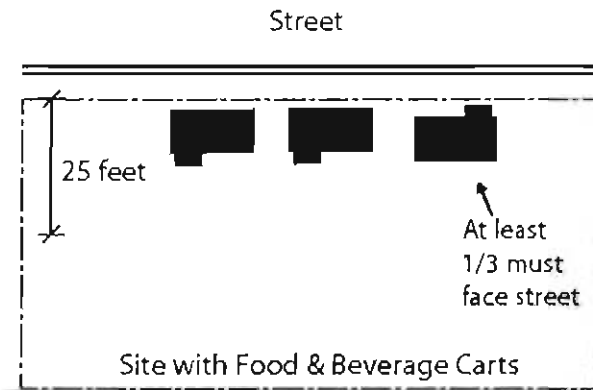
- O. Carts shall not occupy fire lanes or drive aisles necessary for vehicular circulation or fire/emergency vehicle access as determined by the Manager. Carts may occupy other drive aisles. In cases where a portion of a drive aisle is occupied, at least 4 feet of clear maneuvering space shall be provided between the closed portion of the drive aisle and the abutting active parking spaces, as shown in Figure 10.1640(O).

Figure 10.1640(O): Space between active parking and closed parking



- P. Carts shall limit the visual effect of accessory items not used by customers, including but not limited to tanks, barrels and miscellaneous items, such as by using screening or storing them in containers to substantially limit views of such items from the street. Screening could be temporary fencing or landscaping (such as landscaping in pots or planters). Storage containers could be small sheds or storage units. Screening shall:
1. Significantly limit views of items within 3 feet of the ground; and
 2. Allow views through the site between 3 and 10 feet to ensure surveillance of the site remains possible for crime prevention purposes.
- Q. For drive-through carts, the following standards apply:
1. To ensure adequate distance for at least three vehicles to line up behind the vehicle ordering at the drive-through, drive-through Food and Beverage Carts shall have at least 85 feet in queuing distance behind each drive-through window where sales occur. Required queuing distance may be increased as determined by the Manager if a change in distance will promote traffic and pedestrian safety. Queuing distance shall be measured from the rear of the service window or point of service, along the queuing path, to where the driveway from the street crosses from the right of way into the property, as shown in Figure 10.1640(Q). The measurement method can be adjusted by the Manager for unusual circumstances or if needed to meet the intent of this standard.

Figure 10.1640(S): Street-facing service



- T. The applicant shall provide an estimate of the parking demand on the site and provide information about how parking demand will be accommodated, such as through off-street parking or on-street parking on adjacent blocks. That analysis shall consider parking needs of other uses on the site. Off-street parking may be required by the Manager if the applicant cannot demonstrate adequate parking is available to meet demand or it has been determined that a renewing Food and Beverage Cart has experienced parking or related traffic issues on the site or on adjacent blocks.
- U. Carts shall have lighting to ensure a safe environment for customers. If permanent lighting, such as parking lot lighting, already exists on the site, the Manager may determine that the lighting satisfies this requirement. Otherwise, lighting (such as temporary lighting) shall be added that complies with the following:
1. At a minimum, areas intended to be occupied by customers, such as areas near Food and Beverage Cart service windows and customer seating, shall be illuminated when carts are in operation during hours of darkness; and
 2. No direct light source shall be visible at the property line adjacent to residential at 3 feet above ground level; and
 3. Lighting fixtures shall be oriented and/or shielded so as not to create glare on abutting properties; and
 4. The Manager may modify lighting standards if such modifications are deemed necessary and appropriate for the use and surrounding area and help meet the intent of the standard.
- V. Carts and their accessory items visible from the street shall be kept in good repair and be maintained in a safe and clean condition in compliance with the following:
1. Carts shall not have missing siding, skirting or roofing.
 2. Carts shall not have more than 10 percent of any side experiencing rust, peeling paint, corrosion or other deterioration.
 3. Carts shall not have components or attachments in disrepair in a manner that causes an unsafe condition.
 4. Tents and canopies associated with the carts shall not have:
 - a. Tears in the tent/canopy material that exceed 6 inches.
 - b. Mold on more than 10 percent of the material.
 - c. A lack of anchoring.
 - d. Broken or non-functioning supports.

- W. Food and Beverage Carts that require a development permit shall only conduct business from a mobile unit that can be pulled or pushed down a street or highway, such as a trailer. Cart business cannot be conducted in a mobile unit that is self-propelled, such as trucks or recreational vehicles. Vehicles designed to be self-propelled that have had the engines removed shall still be considered self-propelled and shall not be used as Food and Beverage Carts that require a development permit.
- X. Mobile units shall not have any internal floor space available to customers.
- Y. Food and Beverage Carts mobile units shall not exceed 26 feet in length.
- Z. Structures used to provide shelter to customers shall only be tents, canopies and similar membrane structures. Other structures for customer shelter are not allowed. This does not preclude the use of awnings attached to and supported by a mobile unit or umbrellas designed for café or picnic tables. All canopies, tents and other membrane structures erected on Food and Beverage Cart sites shall comply with Building Code anchoring and engineering standards and Fire Code standards.

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Section 5. Volume 3, Section 11.0200 is amended as follows:

Table 11.0204

Land Use Applications and Review Authorities

R = Recommendation D = Decision Authority A = Appeal Authority

Code Citation	Application	Pre-app required?	Type	Manager	Hearings Officer	Urban Forestry Comm.	Historic Resources Committee	Design Commission	Planning Commission	City Council
TEMPORARY, INTERMITTENT AND INTERIM USES (10.1400) and FOOD AND BEVERAGE CARTS (10.1600)										
10.1400	Temporary or Intermittent Use Permit	N	I	D	A					
10.1400 10.1600	Interim Use or <u>Food and Beverage Cart</u> Permit									
10.1400	Applications for replacement Agricultural Product Sales; Commercial Stands, Long Term; <u>or Food and Beverage Carts</u> at sites previously approved for that purpose	N	I	D	A					
10.1400 10.1600	All reviews for Other Interim uses Initial review for new sites for Agricultural Product Sales; and Commercial Stands, Long Term; <u>or Food and Beverage Carts</u> or for sites where the number of Interim Uses <u>or Food and Beverage Carts</u> is proposed to exceed that previously approved	N	II	D	A					

Section 6. Volume 3, Appendix 6 is amended as follows:

Signs for Temporary, Intermittent and Interim Uses and Food and Beverage Carts

A6.061 Sign Types

- D. Banner Signs. Banner signs attached to a building wall may be permitted. Such banner signs are limited to a total of 32 square feet in area per building wall per street frontage. Banner signs shall not require a development permit, but shall conform to all other provisions of the Community Development Code. For Temporary, Intermittent and Interim Uses and Food and Beverage Carts, see Appendix A6.120 for additional standards.

Signs for Temporary, Intermittent and Interim Uses and Food and Beverage Carts

A6.120 Signs for Temporary, Intermittent and Interim Uses and Food and Beverage Carts

Temporary, Intermittent and Interim Uses and Food and Beverage Carts as allowed by **Section 10.1400** and **Section 10.1600** of the Community Development Code shall be allowed the following signs:

F. Interim Uses that are Commercial Stands and Food and Beverage Carts shall be allowed:

1. One wall or banner sign for each side of each stand, cart or mobile unit. Each sign shall not exceed 50 percent of the square footage of the side of the stand or unit or a maximum of 48 square feet, whichever is smaller. If the 50 percent calculation results in less than 8 square feet of signage, an 8-square-foot sign is allowed. Signs that are part of the Commercial Stand or cart (such as vinyl wraps or signs painted on the stand or cart) are exempt from the size limitations; and
1. One readerboard or A-board sign per use per street frontage.
2. If more than one use occupies the same site:
 - a. The number of readerboard and A-board signs per street frontage shall not exceed three per 100 linear feet of frontage; and
 - b. The site is allowed one additional A-board or readerboard sign to act as the site sign.

First reading: October 1, 2013

Second reading and passed: November 5, 2013

Yes: Hinton, Echols, French, Palmero, McCormick, Stegmann

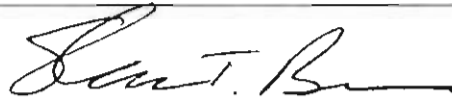
No: None

Absent: Bemis

Abstain: None

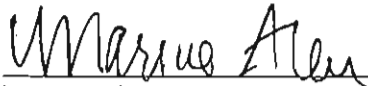


Erik Kvarsten
City Manager

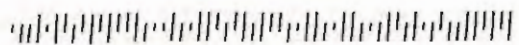


Shane T. Bemis
Mayor

Approved as to Form:



Marnie Allen
Senior Assistant City Attorney



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LAND CONSERVATION
AND DEVELOPMENT



CITY OF GRESHAM

Urban Design & Planning
1333 NW Eastman Parkway
Gresham, Oregon 97030-3813
www.greshamoregon.gov

DLCD
Plan Amendment Specialist
635 Capitol St. NE, Ste. #150
Salem, OR 97301-2540