

**CITY OF PHOENIX  
PHOENIX, OREGON**

**ORDINANCE NO. 950**

**AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE,  
CHAPTER 4.9.1 (TEMPORARY USES)**

**WHEREAS**, the Comprehensive Plan has an adopted policy to “foster economic development through the retention, renewal, upgrading expansion and linkage of existing commercial and industrial business and recruitment of new ones” (Economic Element, Goal 1); and

**WHEREAS**, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

**WHEREAS**, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

**WHEREAS**, the Planning Commission has held a public hearing on April 14, 2014 and took any public testimony regarding the proposed changes; and

**WHEREAS**, the Planning Commission voted unanimously to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-04; and

**WHEREAS**, the Public Hearing on June 2, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes.

**WHEREAS**, the Council, after considering the presentation by the Staff, the recommendations of the Planning Commission and the public testimony received at the hearing, elected to grant approval of the amendments.

**NOW THEREFORE**, The City Council of the City of Phoenix **ORDAINS** as follows:

**Section 1.** The Findings for this amendment are included in the attached Staff Report for LDC:14-04, Exhibits A.

**Section 2:** The Land Development Code Chapter 4.9.1 are amended as proposed in Exhibit B.

**Section 3. Effective Date:** This ordinance shall become effective 30 days after its date of adoption.



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**PLANNING DEPARTMENT**

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**TITLE: AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE  
REGARDING TEMPORARY USES, AMENDING CHAPTER 4**

**FILE NUMBER:** LDC: 14-04

**APPLICANT:** City of Phoenix

**STAFF REPORT:** Available May 19, 2014 at the City of Phoenix, 112 W 2<sup>nd</sup> Street (M-F, 8:00 am to 5:00 pm) or on the website ([www.phoenixoregon.net](http://www.phoenixoregon.net)). For more information, call City of Phoenix, Planning Office, and (541)535-2050.

**DATE OF PLANNING COMMISSION HEARING:** April 14, 2014

**DATE OF THE COUNCIL HEARING:** June 2, 2014

**I. PROJECT INFORMATION:** In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) create a new section for the development of temporary food vendors; and 2.) identify requirements for this type of development.

The current language in the Code has been frustrating for the Staff as well as the applicants. Currently, the section that addresses food vendors is the same as the section that address nearly all temporary buildings. Special circumstances apply to food vendors and the new language addresses these special issues.

The process is also recommended to be changed to allow for a more streamlined process and lower costs.

**II. PROPOSED AMENDMENTS:** The proposed amendments are:

## **Chapter 4.9 – Miscellaneous Permits**

### **4.9.1 – Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, *and temporary food vendors* and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. ~~Three~~ *Four* types of temporary uses require permit approval. (See A, B ~~and~~ C, *and D*)

#### **A. Seasonal and Special Events.**

4. Attached awnings are permitted as long as they are no larger than the temporary trailer and are used for weather protections for customers;
5. If the temporary trailer is located on or adjacent to a privately owned walkway, the remaining unobstructed walkway width shall be a minimum of five (5) feet wide;
6. All food must be in a ready to eat condition when sold;
7. No temporary trailer shall displace required parking spaces or access to required spaces per Chapter 3.4 – Vehicle and Bicycle Parking;
8. The temporary unit and all outdoor equipment shall be located on an improved surface (asphalt or concrete);
9. Temporary units must comply with the following permits:
  - a. Sign permits for any attached signs. Free standing signs are prohibited for temporary food vendors. Signs painted on the vehicle do not require a sign permit.
  - b. Current registration for the temporary unit.
  - c. Building permits where required for any utility connections or building condition.
  - d. Jackson County Department of Health and Human Services where required.
10. Ingress and egress will be safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

**III. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS:** Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with section 4.7.2.

**FINDING:** This proposed amendment was reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014. The hearing by the Council was noticed by posting the information beginning May 14, 2014.

**FINDING:** The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

**FINDING:** A copy of all notifications is available at the City Planning Office.

**Exhibit B CHAPTER 4.9.1 OF THE CITY OF PHOENIX LAND  
DEVELOPMENT CODE, AS AMENDED BY ORDINANCE 950 ON JUNE 16, 2014,  
SHALL READ AS FOLLOWS:**

**4.9.1 – Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and temporary food vendors and seasonal sales such as Christmas tree sales, fire works stands, and vegetable stands. Four types of temporary uses require permit approval. (See A, B C, and D)

**A. Seasonal and Special Events.**

**B. Temporary Sales Office or Model Home.**

**C. Temporary Building.** Using a Type I Procedure, as governed by Chapter 4.1.4 – Type I Procedure (Ministerial), the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already approved and building permits have been obtained;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.2.2 – Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.4 – Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and

11. The use will not result in vehicular congestion on streets;
12. The use will not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
13. The length of time that the temporary building will be used shall not exceed 12 months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.