



CITY OF LEBANON
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Lebanon Municipal Code Title 16: Development Code

Article One: Introduction and Administration

Chapter 16.02: General Administration

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Chapter 16.02

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CHAPTER 16.02: GENERAL PROVISIONS

16.02.010 BACKGROUND - COMPLIANCE AND SCOPE

A. Compliance with the Provisions in the Development Code

Land and structures may only be used or developed by construction, reconstruction, alteration, occupancy, use or otherwise, as identified in this Development Code, or any amendment thereto.

1. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this Code.
2. No land development standard existing on or after the effective date of this Code shall be reduced below the minimum required for it by this Code, unless allowed a waiver or variance is allowed according to provisions of this Code.

B. Site Specific Compliance Obligations Over Time

The requirements of this Code and specifically identified conditions of land use approval shall apply to a site for the duration of a land use activity permitted under the provisions of this Code, and shall not vary with any subsequent amendments of this Code.

C. Most Restrictive Regulations Apply

Where this Code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.

D. Variances

Variances shall be governed by the provisions of Chapter 16.29.

E. Consistency with Plan and Laws

Each development and use application and other procedure initiated under this Code shall be consistent with the City's adopted Comprehensive Plan as implemented by this Code, adopted master plans, and with applicable local, state and federal laws and regulations. All provisions of this Code shall be construed in conformity with the adopted Comprehensive Plan.

F. Use of a Development

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code (including non-conforming uses), and is not prohibited by law.

G. Pre-Existing Development and Approvals

1. **Pre-Existing Development:** Nothing contained in this Development Code shall require any change in the plans, construction, alteration, or designated use of a structure that has been lawfully approved under the provisions and standards that were in effect prior to adoption of this Development Code.
2. **Legality of Pre-Existing Approvals:** Developments, including subdivisions, projects requiring development review and/or site design review, or other development applications for which approvals were granted prior to the effective date of this Code, may continue pursuant to such approvals; except that a modification to a pre-existing approval shall comply with Chapter 16.24 - Modifications to Approved Plans and Conditions of Approval.

- 3. Subsequent Development Applications:** All development proposals received by the City after the adoption of this Code shall be subject to review for conformance with the standards under this Code or as otherwise provided by state law.

H. Building Permit and Certificate of Occupancy:

- 1. Building Permit:** A building permit shall not be issued until the *Planning Official or designee* has issued a determination indicating land use application approval has occurred in accordance with the provisions of this Code and other required reviews, or otherwise found that such a review is not required.
- 2. Certificate of Occupancy Required:** In those cases in which a building permit is required, to ensure completion of a structure or use in the manner approved, a structure shall not be occupied and a use shall not begin until the *Building Official* has issued a certificate of occupancy and/or a final building permit following completion of the work in substantial conformance to the applicable land use and building permits, including other mandatory requirements such as those of the Engineering Division and Fire District Standards and Conditions.
- 3. Temporary and/or Partial Occupancy Permit:** Prior to the final completion of all work, a certificate of occupancy may be issued by the Building Official at his/her discretion for a portion or all of the structure conditioned upon further work being completed by a date certain.

I. Official Action and Non-Violation Provisions

- 1. Official Action and Code Compliance:** All officials, departments, employees and agents of the City vested with authority to issue permits or grant approvals shall adhere to and require conformance with this Code and shall not issue a permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code, or if that approval would result in violation of any other City ordinance.
- 2. Violations of City Codes and Non-Acceptance of Applications:** The Planning Official shall not accept an application when it is known that approval of the application would cause violation of any City ordinance.
- 3. Incomplete or Erroneous Information:** Any land use submittal based on incomplete or erroneous information shall be deemed incomplete¹, and may warrant the submittal of additional information as determined by the Planning Official.
- 4. Notice:** The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to notice. The City shall keep a record of its efforts to notify all parties entitled to notice.

J. Authority to Impose Conditions of Approval

In order to assure compliance with the provisions of this Code and other applicable law, the Planning Official and hearing bodies of the City have the authority to impose conditions of approval governing any final decision allowing development in the City.

¹ State law requires that the City make a determination of incompleteness within 30 days of the filing of an application.

16.02.020 CITY AGENCIES, OFFICERS, AND STAFF WITH LAND USE AND DEVELOPMENT RESPONSIBILITIES

A. The City Council

1. Authority and Responsibility

The State has delegated to the City Council responsibility for adopting land use plans and regulations. The City has adopted this Code pursuant to its responsibilities to secure the health, safety, and welfare of its citizens and also pursuant to its home rule authority. The City Council has created a Planning Commission for the purpose of implementing such plans and controls. In addition, the State has authorized the Council to act upon applications for development or to delegate its authority to act upon such applications.

2. Powers and Duties Related to Land Use Decision Making

The City Council has the following powers and duties in addition to any others it may now have, be given, or confer upon itself. The City Council:

- a. May adopt, amend, supplement, or repeal plans and policies for development in the community.
- b. May adopt, amend, supplement, or repeal the text of any provisions or regulations of this Code or the boundaries of land use zones established on the official Land Use or Zoning Map.
- c. Shall review decisions of the Planning Commission upon appeal.
- d. May expand the City Limits through the annexation of territory that qualifies for inclusion in the City.
- e. May undertake any other legally required action for the management of the City, including Code enforcement.

3. Staffing

In all land use matters under the authority of this Code, the City Council shall be staffed by the City Manager and/or their designee(s), and the heads of City Departments and Divisions, including the Planning Official.

B. The Planning Commission

The Planning Commission shall be appointed in accordance with the Planning Commission's enabling ordinance (Administrative Section of the Lebanon Municipal Code). The Commission shall have the powers and duties provided therein and provided by this Code.

C. Planning Official

1. Powers and Duties

As empowered by the terms of this Code, the Planning Official shall have the power and duty to enforce the provisions of this ordinance. The Planning Official provides professional planning assistance to the citizens, City Council, Planning Commission, and City Manager and is hereby authorized to interpret provisions of this Code and to perform such other duties in the administration of the Lebanon Development Code as are required herein. Such powers and duties may be accomplished by person(s) as designated by the Planning Official.

2. Authorization of Similar Uses

The Planning Official may permit in a particular zone a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone where it is not listed, of a use specifically listed in another zone. The decision of the Planning Official may be appealed to the Planning Commission using procedures as spelled out in Chapter 16.20 of this Code.

D. Conflict of Interest

A member of the hearing authority (Planning Commission, or City Council) shall not participate in any proceedings or action in which the member has an actual conflict of interest defined in State law that would otherwise bar their participation in a decision. Any *ex parte* declaration or actual or potential conflict of interest shall be disclosed at the initiation of all land use hearings.

E. Participation by Interested Officers or Employees

An officer or employee of the City who has a financial interest in a land use decision shall not participate in discussions with or give an official opinion to the hearing body without first declaring for the record the nature and extent of such interest.

16.02.030 LEGAL FRAMEWORK

A. Rules of Construction

This Code shall be considered flexible in order to achieve its purposes. Unless otherwise specifically prescribed in this Code, the following provisions shall govern its interpretation and construction:

1. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.
2. Unless otherwise specified in this Code, any action authorized or required to be taken by the City may be taken by the Council or by an official or agent designated by the Council.

B. Severability

The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be incomplete, the decision shall not affect the validity of the remaining portions of this ordinance.

C. Descriptive Headings

The paragraph captions and headings in this Code are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Code.

D. Savings Clause

Lebanon City Ordinance 1773, as amended, which is repealed by the ordinance adopting this Code, shall remain in force to authorize the arrest, prosecution, conviction, and punishment of a person who violates Lebanon City Ordinance 1773, as amended, prior to the effective date of this Code.

E. Revival

The repeal of Lebanon City Ordinance 1773, as amended, does not thereby revive any provision, ordinance, or section that was in effect prior to the adoption or amendment of Lebanon City Ordinance 1773 as amended. This repeal does not affect any punishment, penalty, or fine incurred before the repeal took place or any prosecution or proceeding commenced or pending prior to the adoption of this Code.

F. Nondiscrimination

The City shall not discriminate on the basis of race, religion, national origin, age, color, gender, sexual orientation, physical disability, or socio-economic status in the administration or enforcement of this Code.

G. The Official Land Use Zoning Map

1. Boundaries of Land Use Zones

Boundaries of Land Use Zones established by this Code are shown on the Official Zoning Map on file in the Community Development office. The Official Zoning Map and all amendments and other matters entered on the Official Zoning Map are a part of this Code and have the same legal effect as if fully set out herein.

2. Zone Boundaries

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad right-of-way or such lines extended except where a boundary line clearly divides a lot, then the boundary line shall be determined by use of the scale designated on the zoning map. Where a boundary line divides a lot, the boundary line shall be considered as the lot line for purposes of determining area and setback requirements for each zone.

3. Amendments

Amendments to the Official Zoning Map shall be adopted as provided in Chapter 16.27, (Zoning Map Amendments) of this Code. After adoption of an amendment, the Planning Official shall alter the Official Zoning Map to indicate the amendment.

4. Zoning and Annexations

- a. All areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan, as provided in Chapter 16.26, (Annexations) of this Code.
- b. Annexations involve the first application of City zoning to property that already has a City Comprehensive Plan Map designation, but has never had a City Zoning Map designation..

5. New Zoning and the Comprehensive Plan

All new Zoning actions (e.g., re-zoning) shall be consistent with the City of Lebanon's adopted Comprehensive Plan Map. (See Chapter 16.27 of this Code.)

H. Development Review Process

The City has two types of development or redevelopment activities: Outright Permitted Uses, and Other Approved Uses.

1. Outright Permitted Uses

Development activities that are permitted outright, are subject to compliance with the development criteria and standards of this Code. These uses require staff review (e.g., of the site plan) upon application for a building permit and are subject to zoning standards and other development provisions of the Code and applicable City ordinances and requirements. Examples of outright permitted uses include but are not limited to single-family dwellings in all residential zones: Residential Low Density (Z-RL) Residential Mixed Density (Z-RM), and the Residential High Density (Z-RH) zone.

2. Other Approved Uses

Other uses may be approved through such processes as (a) Ministerial Reviews; (b) Administrative Review Procedures, (c) Conditional Use review, and (d) Planned Development review. Examples of these uses include but are not limited to the following: a bed and breakfast in a residential zone would require a Ministerial Review; a medical or dental clinic in the Central Business Commercial zone (Z-CCM) would require an Administrative Review; an auto repair shop would require a Conditional Use hearing in a Highway Commercial Zone (Z-HCC); a 25 or more acre commercial development in a Highway Commercial Zone (Z-HCC) would require a Planned Development hearing; and, a large subdivision in the Residential Mixed Density (Z-RM) zone would require a Subdivision development process and hearing. Some of these procedures or reviews require public hearings and all require notice.

3. Development Review Guides

The City, from time to time, may produce pamphlets, brochures and other publications for the public that illustrate and explain the various review processes.

16.02.040 ENFORCEMENT

A. Responsible Officers

The Lebanon Development Code shall be administered and enforced by the City's Planning Official.

B. Building Permit

A building permit shall not be issued by the Building Official for any authorized development unless the proposed development complies with the provisions of this Development Code (including any established conditions of approval), and the required land use development permit was issued.

C. Certificate of Occupancy

A certificate of occupancy shall not be issued by the Building Official for any development unless all requirements of this Code have been met (including any established conditions of approval), or until the applicant has provided some written form of assurance consistent with provisions in this Development Code guaranteeing the completion of all requirements.

D. Stop Work Order

Whenever any work is being done contrary to the provisions of this Development Code, including any established conditions of approval, the City may order the work stopped by notice in writing served on any persons engaged in the work, and any such persons shall immediately stop such work until authorized by the City to continue. The decision to issue or rescind a stop work order shall be made by the City's Planning Official in conjunction with the Building Official.

E. Violations

1. Use of land in the City of Lebanon not in accordance with the provisions of this Development Code, including any conditions of approval established as part of a land use decision, constitutes a violation. Any person, firm or corporation, who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of the Code, conditions of approval, or who resists the enforcement of such provisions, shall be subject to civil penalties as proscribed by the Lebanon Municipal Code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
2. Upon receiving information concerning a violation of this Code, the City's Planning Official may conduct, or cause to be conducted, an investigation to determine whether a violation exists. The Planning Official may request the assistance of other City agencies and officers in the conduct of such investigations.