



**LEBANON FOOD TRUCK TASK FORCE
NOVEMBER 12, 2024 - 8:00 AM
MEETING ROOM 2, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

- A. The November 12, 2024, Food Truck Task Force Meeting is hereby called to order.

2. Approval of Minutes

- A.
- October 21, 2024
 - October 28, 2024

3. Old Business: None

4. New Business

- A. Update from Paula Maville re: Current Application of Zoning Regulations relative to Food Service Vendors
- B. Review of Proposed Amendments to City Code Chapter 179 (as presented to the City Council on June 5, 2024)

5. Open to the Public

- A. Any member of the public who desires to speak on any item may do so when the item is taken up by the Commission and will be allowed to speak on the subject for not more than three minutes. (Note: Speakers are asked to state their name, ward of residence, and to use the microphone provided.)

6. Future Agenda Items

7. Other Business

8. Adjournment

Meetings are open for in-person and remote attendance. Members of the public who wish to attend remotely may do so by visiting LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupt virtual or phone connection(s), the meeting will continue without remote access capabilities.

**Agenda
Food Truck Task Force
November 12, 2024**

2. Acceptance of Minutes:

Minutes To Be Accepted

- October 21, 2024
- October 28, 2024

MOVED, to approve the minutes as presented in the November 12, 2024 agenda packet.

DRAFT

**LEBANON FOOD TRUCK TASK FORCE
(LFTTF)
MONDAY, OCTOBER 21, 2024 – 8:00AM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM LEBANONNH.GOV/LIVE**

MINUTES

MEMBERS PRESENT: Cliff Below (remote), Falguni Mehta, Victoria Smith, Ben Van-Vilet

MEMBERS ABSENT: None

STAFF PRESENT: Paula Maville, Deputy City Manager for Special Projects

1 The October 21, 2024 Food Truck Task Force Meeting was called to order at 8:05AM by Paula
2 Maville (since no Chairs have been elected yet).

3

4 **1. OLD BUSINESS: NONE**

5

6 **2. APPROVAL OF MINUTES:** Not applicable

7

8 **3. OLD BUSINESS:** Not applicable

9

10 **4. NEW BUSINESS:**

11

12 Ms. Maville started the meeting by explaining her role, the agenda for the day, as well as stating
13 that the biggest challenge will likely be finding the location(s) for these trucks. She then
14 explained the role of the Chair and Vice Chair, and that the first charge of this task force is to
15 assign these roles.

16

17 *Victoria Smith was nominated to be Chair by Falguni Mehta.*

18 *Seconded by Ben Van-Vilet.*

19 **The MOTION was approved (4-0)*

20

21 **APPROVAL OF TASK FORCE CHAIR:**

22 *A MOTION for Approval of the Chair was made by Ms. Mehta.*

23 *The MOTION was seconded by Mr. Van-Vilet.*

24

25 **The Vote on the MOTION was Approved: (4-0)*

26

1 Falguni Mehta was nominated to be Vice Chair by Ben Van-Vilet and seconded by Victoria
2 Smith.

3
4 **APPROVAL OF TASK FORCE VICE CHAIR:**

5 **A *MOTION* for approval of the Vice Chair was made by Ben Van-Vilet.**

6 ***The MOTION was seconded by Victoria Smith.***

7 ****The MOTION was Approved: (4-0)***

8
9 Reviewed the purpose and charge of this task force and agree to the future meeting schedule. Ms.
10 Maville previously provided this Lebanon Food Truck Task Force current City code 179 for them
11 to start familiarizing themselves with this code. There are also relevant zoning regulations and
12 Ms. Maville will provide this task force with these regulations in the future.

13
14 Some Zoning amendments regarding food trucks may be presented to the City Council. If so, they would
15 not become official until perhaps as late as the March election. The Public would not need to vote on
16 anything pertaining to food trucks in residential areas. The Council has the authority to have any
17 amendments put before the public, by placing them on the ballot.

18
19 If zoning amendments are presented, the LFTTF should familiarize themselves with the proposal, so that
20 if they have something they want to recommend, they could present this, or if the LFTTF disagrees, that
21 could be addressed as well.

22
23 Ms. Maville also explained that whatever comes from this task force must be reviewed by the City
24 Council. Chapter 179 regulates these types of things on public property, whereas the Zoning ordinance
25 regulates private property. Neither has control over the other, but each requires approval by the City
26 Council and potentially the votes of Lebanon.

27
28 Ms. Maville explained that this task force is primarily charged with reviewing City Code Chapter 179 and
29 coming up with a comprehensive and sustainable plan for permitting and planning for food truck on
30 public property. She reiterated that finding locations will be the biggest challenge and will be a key focus
31 for this LFTTF; where, how, etc. They are also charged with public outreach, which they will get into
32 soon, after they have a solid understanding of the task at hand, so that they have something to talk with
33 the public about and be able to answer questions. The deadline for this task force is February 15, 2025,
34 and the goal is to have these new regulations in place by the next season in 2025 (April). This will allow
35 for permitting of the food trucks, etc.

36
37 The first thing that this task force needs to do is discuss the current challenges of food trucks. Ms. Mehta
38 (a food truck owner) shared her perspective. One challenge was electricity, as it kept tripping. She was
39 aware that space was an issue for the driveable food trucks. She said some of the neighbors were
40 complaining about the noise. And from a customer perspective, the hours of the trucks are inconsistent so
41 they are not sure when they can get which foods. Also, parking has become more of an issue for
42 customers, since the food trucks are taking up space.

43
44 Mr. Van-Vilet asked if there was any work done on locations for food trucks before. Ms. Maville stated
45 that there has not been. Ms. Mehta stated that Lebanon is a big town and is of the opinion that there are
46 many places that could be viable. She is also aware of some apartment areas that want food trucks nearby.

47

1 Ms. Maville agreed that all these are things that need to be considered, along with whether these locations
2 are public or private property.

3
4 Ms. Smith inquired if a private property owner gave their permission for a food truck to park, would this
5 then be allowed. Food trucks are allowed on some private properties, but with limitations due to current
6 zoning.

7
8 Ms. Smith stated that they need to define who the audience is and consider what they are trying to
9 accomplish. Are we allowing food trucks because the trucks want them, or because our citizens want
10 them? Who is the customer?

11
12 Ms. Maville said that the original regulations were for small vendors and craft fairs, rather than large food
13 trucks. The City wants to be sure that the downtown area is vibrant, and food trucks fit within the
14 guidelines that we have or will have.

15
16 Ms. Maville stated that it would be helpful for this task force to learn more about who the customer is. Is
17 it a drive by person that sees the truck and then stops? Or is it a person that specifically plans to come eat
18 at their preferred food truck here? So, then this is a destination rather than a passerby.

19
20 Ms. Mehta said traffic is a real issue. Some people park illegally to get their food, some do not obey the
21 stop signs, and it creates a danger, particularly for summer camps with many children walking around the
22 green.

23 Ms. Smith made similar comments about the traffic and the fact that people do not always yield or stop
24 when they should.

25
26 Mr. Below commented that having spaces blocked off every day, when the vendor is not there, is not
27 ideal. He suggested that perhaps there be an online site where each vendor could update what dates and
28 times they will be at the downtown area. Areas should not be blocked off if there is no vendor. Some
29 vendors are not local, so that is an issue sometimes as well.

30
31 The combination of having a portal would be convenient for the customers, and accommodating these
32 vendors, is good for the City and the residents and passersby. These add to the perception that Lebanon is
33 a vital community that people want to be part of. Downtown is our major pedestrian zone, so this needs to
34 be taken into consideration.

35
36 Mr. Van-Vilet asked if anyone had considered putting the trucks in the actual park. Ms. Mehta said that a
37 nearby location, rather than right on the green, would be better and look better. She thinks there are
38 several other options, and she thinks people will go there, if they know the trucks are there. She would
39 like to consider right across from the CCBA, on the street. It would be walkable and therefore readily
40 accessible to the Green, and the noise would not interfere with the Green. It becomes a destination.

41
42 Ms. Maville commented that the City owns this property.

43
44 Ms. Smith said that the City is in the exploration stage of what they will be doing with the parking lots in
45 the area behind City Hall, near the Green.

46

1 Ms. Mehta also mentioned that most cities with food trucks have at least a few places for people to sit,
2 such as a few picnic tables.
3

4 Ms. Maville also suggested that this task force consider downtown West Lebanon as an option. It will be
5 under full construction, some streets being made wider, have street trees, and will be very attractive.
6 There will also be a roundabout at Bridge Street intersection, which will help with traffic flow. The
7 widening of the bridge will happen simultaneously. It is not one or the other – Lebanon and West
8 Lebanon both need to be considered by this task force. The City owns streets, sidewalks, parks, parking
9 lots and many of these could be options, including Main Street and Hanover Streets, the parking lots near
10 the Green, etc., etc. The LFTTF will have many locations to consider.
11

12 Mr. Van-Vilet asked if the redevelopment in West Lebanon will have specific areas for this task force to
13 consider. Ms. Maville that these can be part of this consideration. The City has purchased 4-5 lots on
14 Main Street so recommendations coming out of this task force could have some of these areas designated
15 for food trucks. Ms. Maville said that one of the challenges is that currently, food trucks fall under
16 “refreshment stands”, and they need to see if they are already allowed in some areas of West Lebanon,
17 e.g. near Kohl’s. Also, near Etna Road, Juniper Hill (private), etc. Public areas will be much more
18 conducive to food trucks.
19

20 Ms. Smith said that the food trucks are very popular with Dartmouth, so that might be a consideration if it
21 is in Lebanon.
22

23 Mr. Below said that this year the food trucks applying for permits maxed out. Currently these permits run-
24 in three-month increments, quarterly. But this needs to be reviewed because April is frequently too cold,
25 as is late September.
26

27 Ms. Maville said that the goal is to be fair, and the seasonal fee is very reasonable. The City provides the
28 space, and the fee is only \$100 for the season. Some electricity used to be made available, but since it is
29 expensive, they now charge for this. Currently the City has a lottery system, but they have not had to use
30 it so far. It would work on a first come, first serve basis, such as Vendor 1 wants space 1, but Vendor 2
31 wants space 1 as well.
32

33 Ms. Mehta asked them to consider winter month locations as well, if the food trucks have the right
34 equipment. It would be good for the customers as well as the food truck owners – more predictable and a
35 longer season for all. This task force can include some performance language, though Ms. Maville stated
36 that the challenge would be monitoring this.
37

38 Mr. Van-Vilet reiterated that West Lebanon and Lebanon could dovetail so this task force needs to
39 consider all options for both.
40

41 Ms. Maville recapped today’s discussion as follows:

- 42 • Challenges on Colburn Park are currently lack of electricity, noise from generators,
43 heavy traffic, blocked parking spaces, vendors not vending when they have reserved,
44 cones placement and removal, and safety for pedestrians.
45
- 46 • The Task Force talked about private property locations such as Etna Road and Juniper
47 Hill area on Mt. Support.

- 1
- 2 • Who is the customer base? The LFTTF needs to understand this thoroughly.
- 3 Destination for food truck customers, passersby, or a combination of both. Mr. Below
- 4 added that the visibility is at least initially a factor, so he has concern about these food
- 5 trucks being highly visible, for continued success. Ms. Maville added that Hanover
- 6 Street has high visibility, is City property, so this task force could consider this area as
- 7 well.
- 8
- 9 • Food trucks are a good opportunity for small businesses to start up.
- 10
- 11 • Locations – there will be many areas to consider such as the parking lot behind City
- 12 Hall near the retaining wall, areas in West Lebanon and Lebanon as noted above. And
- 13 also providing facilities and infrastructure, wherever they will be. Creating these
- 14 locations as destination areas, so that the public will know both when and where to
- 15 expect which food trucks.
- 16

17 Future meetings dates will be as follows for the remainder of the year (2024):

18 **Tuesdays, 8:00AM – 9:30AM**

19 **November 12, November 19, December 3, December 10th**

20

21

22 **5. OPEN TO THE PUBLIC: No One came forth.**

23

24 **6. FUTURE AGENDA ITEMS: NONE**

25

26 **7. OTHER BUSINESS: NONE**

27

28 **8. ADJOURNMENT:**

29 *A MOTION to adjourn was made by Victoria Smith.*

30 *Seconded by Ben Van-Vile.*

31 **The MOTION was approved (4-0)*

32

33 *Meeting was adjourned at 9:20AM.*

34

35 Respectfully Submitted,

36 Cinda Mersel

37 Recording Secretary

DRAFT

**LEBANON FOOD TRUCK TASK FORCE
(LFTTF)
MONDAY, OCTOBER 28, 2024 – 8:00AM
MEETING ROOM 1, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM LEBANONNH.GOV/LIVE**

MINUTES

MEMBERS PRESENT: Cliff Below (remote), Falguni Mehta (Vice Chair), Victoria Smith (Chair), Ben Van-Vilet

MEMBERS ABSENT: None

STAFF PRESENT: Paula Maville, Deputy City Manager for Special Projects

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1. CALL TO ORDER:

A. The October 28, 2024 Food Truck Task Force Meeting was called to order at 8:05AM by Victoria Smith, Chair.

2. APPROVAL OF MINUTES: Not applicable

3. OLD BUSINESS: Not applicable

4. NEW BUSINESS:

The focus of today’s meeting was Reviewing City Code, Chapter 179, a general overview of how things are regulated and is the chapter that regulates vending. Ms. Maville displayed this code on a screen for the task force to view.

The responsibility of this Task Force will be to suggest changes to the City Council for Chapter 179, as well as Zoning regulations for private properties.

Ms. Maville will be meeting with Tim Corwin and David Brooks this week, to learn more about how they currently regulate food trucks in the zoning ordinance. She will share her findings with this Task Force.

Ms. Maville began by reviewing the definitions in Chapter 179, Section 179-2 and explained that this section outlines how many vendors they’re allowed to have, locations, conditions of what is being regulated, definition of abutting businesses, etc.

1 Mr. Below addressed the term “STAND” and the fact that the term trailer might need to be added to the
2 current verbiage.

3
4 179-3 Permit required. It was noted that the City has a part time inspector/consultant for public health.
5 The City does not have a separate division for this. Restaurants are regulated by the State of New
6 Hampshire. The City confirms that businesses have the proper licensing.

7
8 Mr. Below said we no longer have a licensing board and Ms. Maville thinks that this has been addressed
9 in the proposal from June 5, 2024.

10
11 179-4 Permits and fees. These must be obtained from the City Manager. Due to the increased cost of
12 electricity, the City no longer provides food trucks with electricity, but charges them for it.

13
14 Daily permits = \$10
15 Weekly permits = \$50
16 Seasonal permits = \$100 (quarterly)

17
18 To date, they have not had more vendors than spaces. If this happens, the City will utilize a “lottery”
19 system. Allowing for growth, this will need to be addressed as well as possible other locations including
20 West Lebanon, since currently they have no allocated spaces for vendors.

21
22 Ms. Maville noted that things are not exactly as is currently written in 179. Task Force will address
23 several items and make recommendations. For example, vendors *might remain* on South Park Street, but
24 the wording will need to allow for the size of food trucks, trailers, etc. This is all up for consideration and
25 discussion.

26
27 Ms. Maville suggested this Task Force look at the June 5, 2024 Council meeting, to understand both
28 current regulations as well as some amendments that were proposed. Also, they will need to come up
29 with a variety of options. She will resend it to them.

30
31 Mr. Below said that two concerns from the June 5th meeting are shifting vendors to the south side of South
32 Park Street and a concern about a non-code compliant curb that is tilted and could be a safety hazard for
33 patrons stepping from the grassy area to the vendors.

34
35 179-5 Application.

36
37 179-6 Limitation of number and location of vending operations; nonprofit permits. Currently this is
38 seasonal, and this Task Force will address the possibility of other options such as year-round vending,
39 daily, weekly, etc.

40
41 179-7 Restrictions applicable to all vendors. Definitions for actual vendors will need to be reviewed for
42 clarification and to allow for craftspeople, large size trailers, food trucks, etc.

43
44 Also, they need to suggest safety considerations such as vendors windows not facing the road, safety
45 cones near the trucks, among other possible considerations.

46
47 The East side of the Park is not an option. The Grounds crews use this, and the traffic and visibility there
48 is already a challenge.

49

1 The question was asked if the Farmers Market could be more frequent than once each week (currently
2 Thursdays). It was asked if a vendor could share the same space, given the allowed hours are currently
3 7:00AM-9:00PM. Ms. Maville said this Task Force could ask for these in their suggestions.
4

5 Some kind of marking that is parallel to the park could be a suggestion to designate vendor permitted
6 spaces. This task force can consider a better way to address this and include this in their suggestions for
7 better parameters.
8

9 It was agreed that this Task Force also needs to consider any options for private property as well. The
10 Task Force needs to understand what is currently allowed on private properties and decide which areas
11 they want to address and make suggestions accordingly. They need to provide guidance on how this is
12 regulated, for both public and private property.
13

14 Mr. Below said that in the past, there had been an issue with food trucks at River Park in West Lebanon
15 that included an event with The Lebanon Opera. Ms. Maville reiterated that all of this and more needs to
16 be addressed by this Task Force as they take a comprehensive and thoughtful approach to this.
17

18 **5. OPEN TO THE PUBLIC: No One came forth.**
19

20 **6. FUTURE AGENDA ITEMS:** The next meeting they will discuss proposed zoning changes along
21 with the June 5, 2024 Council meeting proposal and meeting notes, as well as Zoning ordinance and the
22 discussion Ms. Maville has with Zoning. She will also look at the comparison between 179 and what was
23 proposed in June and share this with this Task Force.
24

25 **7. OTHER BUSINESS: NONE**
26

27 **8. ADJOURNMENT:**

28 *A MOTION to adjourn was made by Falguni Mehta.*

29 *Seconded by Ben Van-Vile.*
30

31 **The MOTION was approved (4-0)*
32

33 *Meeting was adjourned at 9:27AM.*
34

35 Respectfully Submitted,

36 Cinda Mersel

37 Recording Secretary

**Agenda
Food Truck Task Force
November 12, 2024**

4. New Business:

**4.A – Current Application of Zoning Regulations
Relative to Food Trucks**

CURTILAGE: The land within 15 feet immediately surrounding a house or ***dwelling***, including any closely associated buildings and structures, but excluding any associated "open fields beyond".

DISTRICT ENERGY SYSTEM: A system for collecting, generating, storing and distributing useful thermal energy derived primarily from renewable energy sources that are used, in the first instance, to help heat or cool buildings or provide hot water on-site and on adjoining properties, in neighborhoods, or commercial and industrial districts and that may also generate electrical power as part of combined heat and power systems.

DISTRICTS, INDUSTRIAL: The IND-L, IND-H, and IND-RA Districts.

DISTRICTS, COMMERCIAL: The GC, GC-1, CB, LD, and MC Districts.

DISTRICTS, MIXED USE: The PB, R-O, and R-O-1 Districts.

DISTRICTS, RESIDENTIAL: The R-1, R-2, R-3, RL-1, RL-2, and RL-3 Districts.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND: Any place or premises used for sale, dispensing or servicing of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DRIVE-THROUGH FACILITY: Any facility where retail sales, food sales or services are provided to customers who drive up to a window or to an automated device to receive the sales or services, provided that such sales or services are allowed in the zoning district.

DRIVEWAY: A private off-street travelway used to provide vehicular access to ***lots, buildings, structures*** and/or ***parking areas***. Except for ***one-*** and ***two-family dwellings***, a driveway shall not be used for parking more than two vehicles unless it contains enough area to allow any vehicle to be parked without moving another. See also definitions of "***parking area***" and "***off-street parking spaces***."

DWELLING: A ***building***, or space within a ***building***, designed for and used primarily by one or more families for living quarters including permanent provisions for sleeping, eating, cooking and sanitation, but not including recreational vehicles (RVs), ***manufactured housing***, trailers of any kind, ***hotels, motels, group residences, lodging houses***, institutional homes, residential clubs, or other commercial accommodations offered for occupancy.

DWELLING, ONE-FAMILY: A ***dwelling*** with one (1) ***dwelling unit***.

DWELLING, TWO-FAMILY: A ***dwelling*** with two (2) ***dwelling units***.

DWELLING, MULTI-FAMILY: A ***dwelling*** with three (3) or more ***dwelling units***.

DWELLING UNIT: One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or ***dwelling units*** which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. The term includes sectional homes and

SECTION 305 GENERAL COMMERCIAL DISTRICT (GC).

305.1 Purpose.

The purpose of the GC District is to provide ample land with good highway access for the location of commercial development serving the regional and local markets.

305.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Residential</u> 1. Dwelling unit(s) above first floor 2. Multi-family dwelling (see Section 305.5) <u>Commercial/Non-Residential</u> 3. Amusements (indoor) 4. Car wash 5. Community center 6. Drive-in restaurant, refreshment stand 7. Drive-through facility 8. Drycleaning pick-up station 9. Financial institution 10. Funeral home 11. Group day care facility per Section 604 12. Health club 13. Hotel 14. House of worship 15. Laundromat 16. Local government use 17. Membership club 18. Motel 19. Movie theater 20. Office 21. Personal service 22. Publishing/printing 23. Radio or TV studio 24. Recreational facility, indoor	<u>Commercial/Non-Residential</u> 1. Alternative treatment center per Section 613 2. Bus terminal 3. Educational facility, college/university 4. Essential service 5. Truck terminal <div style="text-align: center;"><u>Uses by Conditional Use Permit</u> (see Section 302.4)</div> <u>Commercial/Non-Residential</u> 1. Care and treatment of animals 2. Contractor's yard 3. Craftsman's shop 4. Plumbing, electrical or carpentry shop 5. Produce stand 6. Recreational facility, outdoor 7. Warehouse 8. Wholesale sales <u>Planned Developments</u> 9. Commercial PUD per Section 501

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5. A bank or business check or money order for all recording fees made payable to the Grafton County Registry of Deeds.
6. If applicable a copy of the State of NH Dept. of Environmental Services Subsurface Systems Bureau Approval and plans.
7. If applicable a Water Connection Permit Application.
8. If applicable a Sewer Connection Permit Application.
9. Impact Fee Invoice Acknowledgment.

SECTION 611 KEEPING OF CHICKENS.

The intent and purpose of this section is to allow the keeping of a limited number of chickens, primarily for the purpose of providing fresh eggs to the occupants of the **dwelling**.

The keeping of chickens shall be permitted for all **one-** and/or **two-family dwellings**, provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where **agriculture** is a permitted use):

- A. It shall be unlawful to keep more than the following number of chickens on any **lot**:

Up to 1 acre	up to a total of 5 hens
Up to 2 acres	up to a total of 10 hens
More than 2 acres	up to 15 hens plus 2 hens per acre.
- B. No chickens shall be allowed on a **lot** with a **multi-family dwelling**.
- C. No roosters shall be allowed in the R-1 or R-2 Districts. In the R-3 District, roosters may be kept on **lots** larger than 5 acres at a ratio of 1 rooster per 10 **hens**.
- D. There shall be no outside slaughtering of chickens.
- E. A **coop** shall be provided within a **secure enclosure**. All chickens shall be kept outdoors within the **secure enclosure** at all times. The **secure enclosure** and **coop** shall be maintained in a humane and sanitary manner.
- F. The **secure enclosure** and the **coop** shall comply with the minimum required **yards** for the respective zoning district, and shall not be located within the **front yard**. For the keeping of roosters (per Section 611.C), the **secure enclosure** and **coop** must maintain a minimum **setback** of 150 feet from all lot lines.
- G. A zoning permit must be obtained prior to the construction of the **secure enclosure, coop**, and the keeping of chickens.

**Agenda
Food Truck Task Force
November 12, 2024**

4. New Business:

**4.B – Review of Proposed Amendments to City Code
Chapter 179**

(as presented to the City Council on June 5, 2024)

**Agenda
Lebanon City Council
June 5, 2024**

10. New Business:

**10.C – Discussion and Set Public Hearing for June 19, 2024:
Ordinance #2024-04 to Amend City Code Chapter 179, Vendors**

Background

The City Manager’s Office coordinates the permitting of vendors operating around Colburn Park and along the pedestrian mall pursuant to City Code Chapter 179, Vendors. The Code Chapter was adopted in 1990 and has been amended on several occasions since that time.

Over the last several months, the City Manager’s Office has been drafting proposed amendments to Chapter 179 in an effort to address a variety of operational issues that have arisen in recent years. Primary amendments include adjustments and clarification of the number and location of spaces within which vendors may operate and updates to the proposed fee structure for vendors as further described below. In addition, the Department of Public Works has proposed new language to address disposal of food waste and grey water waste from food truck vendors, in particular. However, because large portions of the current chapter have been reformatted, the current proposal is to repeal and replace the chapter language in full.

With respect to the number and location of vendors, the current language of Chapter 179 provides that “up to five parking spaces on the north side of [South Park Street] between the crosswalk entrance and the easterly corner of Colburn Park” are available for vending activity. (Note: although the term “parking spaces” is used, this has always been understood and interpreted as “vendor spaces”). However, for many years, the City has permitted vending areas both west and east (before and after) the crosswalk on South Park Street. As depicted in the attached Vendor Parking Spaces diagram from 2017, two seasonal vendors were allowed to occupy a total of six parking spaces west of the crosswalk and two seasonal vendors and one daily or weekly vendor were allowed to occupy a total of eight parking spaces east of the crosswalk.

In recent years, it has become evident that most vendors cannot fit within the allotted areas as shown on the 2017 Vendor Parking Spaces diagram. Vendors are often unable to detach (or reattach) their food trailer from their towing vehicle because of space limitations due to other vendors or from private vehicles parking immediately adjacent to the food trucks/trailers. As a result, the currently proposed amendments include a reduction in the total number of vendor spaces from five to four, but with enough space for each towing vehicle and trailer.

It has been observed that most of the food trucks operating on South Park Street have service windows that open on the passenger side of their vehicle. When the vendors are located on the north side of South Park Street, customers are required to stand immediately next to moving traffic in the travel lane of the roadway, which has long been a cause for concern. In an effort to begin to address this issue, the current proposal would allow two vendor spaces on the south side of South Park Street, such that the service windows would open toward the adjacent sidewalk and away from moving traffic.

In addition, the current language of Chapter 179 provides for the regulation of sales by vendors within the general area of Colburn Park and the pedestrian mall. In recent years, the City

Manager's Office has received requests to expand the area where vending on City land is allowed to include the area formerly known as "Hough Square", near the intersection of Hanover, Hough, and High Streets. Many businesses located in Hough Square are similarly situated to those along the pedestrian mall in that the front of their buildings and storefronts coincides with the edge of the public right-of-way.

Also, in recent years, the Department of Public Works has been alerted to vendors disposing of grey water into the public stormwater system, which is a violation of City Code and federal law. As a result, DPW staff have recommended amendments to Chapter 179 concerning the proper disposal of grey water at the City's wastewater treatment facility with an applicable fee schedule and penalties for illicit discharges. As proposed, any vendor who elects not to use the City's wastewater treatment facility must provide proof of an acceptable alternative disposal location as part of their application for a vendor permit.

Finally, during the NH legislature's last session, legislation was passed that regulates the disposal of food waste by persons generating one ton of such waste per week or more if a facility authorized to manage food waste is located within 20 miles. Although the legislation does not take effect until February 1, 2025, proposed language has been added to Chapter 179 informing food truck vendors that the Lebanon Solid Waste Facility is authorized and has capacity to accept food waste for purposes of compliance with the provisions of NH RSA 147-M:27, V.

Additional proposed amendments to the chapter include new definitions; clarification that sidewalk vending is permitted for business fronting on North Park and West Park Streets; update and clarification of information required for vendor permit applications; updates to the permit fee and electricity usage fee for seasonal vendors; and a general reformatting of some of the existing language.

Action

The following motion is offered for City Council consideration:

MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, June 19, 2024, beginning at 7:00 p.m. in Council Chambers, City Hall, and Remote via the City's Virtual Platform, for the purpose of receiving public input and taking action on proposed Ordinance #2024-04 to amend City Code Chapter 179, Vendors, by repealing and replacing the existing language in its entirety.

Included In This Section:

1. Proposed Ordinance #2024-04
2. City Code Chapter 179, Vendors
3. Legal opinion from Attorney Christine Johnston, dated May 22, 2024
4. Vendor Parking Spaces diagrams from 2017 and proposed for 2024

CITY OF LEBANON
ORDINANCE #2024-04

AN ORDINANCE TO AMEND the Code of the City of Lebanon by deleting and repealing Chapter 179 thereof, Vendors, and replacing it with a new Chapter 179, to be entitled Vendors, which chapter provides for the regulation of sales by vendors within the general area of Colburn Park, the Lebanon Mall, and the area of Hanover Street formerly known as “Hough Square” in the City of Lebanon.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1:

The Code of the City of Lebanon is hereby amended by deleting and repealing Chapter 179, Vendors.

Section 2:

The Code of the City of Lebanon is hereby amended by adding thereto a new chapter, to replace Chapter 179 hereinabove repealed, to be Chapter 179, Vendors, to read as follows:

- §179-1 Declaration of purpose.
- §179-2 Definitions.
- §179-3 Permit required.
- §179-4 Permits and fees.
- §179-5 Limitation of number and location of vending operations; nonprofit permits.
- §179-6 Restrictions applicable to all vendors.
- §179-7 Grey water waste disposal.
- §179-8 Suspension or revocation of permit.
- §179-9 Appeals.
- §179-10 Penalties for offenses.

§ 179-1 Declaration of purpose.

The purpose of this chapter is to provide for the regulation of sales by vendors within the general area of Colburn Park, the Lebanon Mall, and the area of Hanover Street formerly known as “Hough Square” in the City of Lebanon. This is necessary to ensure the free flow of motor vehicle and pedestrian traffic and to promote the public health, safety and welfare in that area.

§ 179-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Abutting Business - Any legitimate business located within, whether by lease, rental or ownership, a property directly abutting North Park Street, West Park Street, the Lebanon Mall, and those businesses located on Hanover Street within the area formerly known as “Hough Square” (shown on the map attached as Appendix A).

Food Waste (also referred to as food scraps) - Waste that has the potential of being composted and thereby diverted from disposal in the landfill. Examples include, but are not limited to: coffee grounds, eggshells, meat, dairy, fruit and vegetable scraps/peelings.

Grey Water Waste - Any wash water that has been used in a home or business, except water from toilets.

Public Street or Sidewalk - Include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys, and any other public way.

Stand - Any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device which is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage, or transportation of articles offered for sale by a vendor.

Vendor - Any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods, or merchandise on any public street or sidewalk from a stand, motor vehicle, or from his or her person.

Vending Area - One of four designated areas for seasonal vendors only, encompassing not more than 6 parking spaces each along South Park Street. Boundary of vending areas will be clearly marked, and all vehicles associated with the vending operation (truck & trailer combined) must be contained within vending area. Vending areas are as shown on the map attached as Appendix B.

Vending Hours - Vending is permitted for daily, weekly, and seasonal vendors between the hours of 7:00am-9:00pm, Monday through Sunday during the vending season only.

Vending Season - The vending season for all vendors shall be April 1 through October 31.

§ 179-3 Permit required.

Vending which occurs as an inherent part of an event properly licensed or permitted by the City Manager, including but not limited to: a farmers' market, street fair, or alumni day, shall be exempt from the provisions of this chapter.

Vending activity shall be unlawful on all streets, sidewalks, and other public property in Lebanon, other than those listed below. However, this prohibition shall not apply to mobile vendors whose vehicle, stand or cart does not remain in any single site longer than 30 minutes, including but not limited to mobile ice cream trucks.

Vending activity is limited to the areas described below. It shall be unlawful for any vendor or abutting business to sell, display, or offer for sale any food, beverage, goods, or merchandise without first obtaining a permit from the City Manager. Vending activity on private property is regulated by the Zoning Ordinance.

- A. South Park Street: up to four designated vending areas on either side of the street. Permits will be issued for seasonal vending only.
- B. North Park Street: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on North Park Street. Vending shall be by means of a "stand" as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.
- C. West Park Street: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on West Park

Street. Vending shall be by means of a “stand” as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.

- D. Colburn Park: described as the entire area bordered by North, West, South, and East Park Streets, excluding the sidewalks along those streets. A maximum of four "stand" vendors will be permitted to utilize Colburn Park at any given time. Permits will be issued for daily/weekly vending only and will not be issued on Thursdays from May 1 through September 30 so as not to conflict with the weekly farmers’ market.
- E. Lebanon Mall: described as extending from the westerly sideline of West Park Street west and north to Hanover Street, meaning and intending to include the entire area of the pedestrian mall. A maximum of two “stand” vendors will be permitted to utilize Lebanon Mall at any given time. Permits will be issued for daily/weekly vending only. Permits for seated outdoor dining will only be issued to businesses physically located within or abutting the bounds of the pedestrian mall.
- F. Hanover Street “Hough Square”: vending shall be permitted within the sidewalk area directly in front of a legally established business/place of residence that is physically located on Hanover Street within the area formerly known as “Hough Square”. Vending shall be by means of a “stand” as defined above and shall be placed in a location that does not impede pedestrian travel. If a stand cannot be placed in such a manner as to allow a minimum five-foot width for pedestrian movement, vending will not be permitted.

No permit shall be issued to an applicant unless the applicant assumes liability for damages, property loss, injury or death, or other related liability resulting from the activities of the vending operation.

§ 179-4 Permits and fees.

A. Daily Permits:

Daily Permits are issued for “Stand” vendors only. They are issued for any day of the week to include weekend days. Consecutive daily permits may not exceed three days. If a permit is requested for 4 or more days, the permit shall be considered a Weekly Permit. The fee for a daily vendor permit is \$10. Applicants wishing to obtain daily permits shall apply to the City Manager at least 24 hours prior to the desired start date. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) Applicants must meet the requirements of the City Manager for size of vending stand, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (7) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing.
- (8) Permits and assigned locations are non-transferable, and the fee is non-refundable.

- (9) Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the daily fee for use of electricity from a City-owned power supply is \$3.

B. Weekly Permits:

Weekly permits are issued for “Stand” vendors only. Permits are issued for the week beginning Monday and ending Sunday and may run consecutively. The fee for a weekly vendor permit is \$50. Applicants wishing to obtain a weekly permit shall apply to the City Manager at least 5 days prior to the desired start date. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) Applicants must meet the requirements of the City Manager for size of vending stand, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (7) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing.
- (8) Permits and assigned locations are non-transferable, and the fee is non-refundable.
- (9) Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the weekly fee for use of electricity from a city-owned power supply is \$15.

C. Seasonal Permits:

Seasonal Permits are issued for the time beginning April 1st and ending October 31st for specified vending areas as defined above and depicted on the map attached as Appendix B. The fee for a seasonal vendor permit is \$200. Applicants wishing to obtain a seasonal permit shall apply to the City Manager between January 1 and March 14 for the vending season. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) If employed by another, the name and business address of the person, firm, association, organization, company, or corporation.
- (4) If a motor vehicle is to be used in the vending business, a description and size (length and width) of the vehicle, together with the motor vehicle registration number.
- (5) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (6) For food trucks and trailers, in addition to required State permits, no vending permit shall be issued without a food truck inspection by the Lebanon Fire Department, or an authorized agency as designated by the Lebanon Fire Department. Should inspection be unfavorable, a permit will not be issued until truck/trailer is found to be compliant with required regulations.

- (7) Applicants must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (8) When more completed applications are received for vending areas than are available, the City Manager shall determine the allocation of vending areas by a random drawing. The drawing shall be held as soon as March 15 or first business day immediately following (for example, if March 15 falls on a Saturday or Sunday, the drawing will take place on the following Monday).
- (9) Permits and assigned locations are non-transferable, and the fee is non-refundable.
- (10) To retain a permit for assigned vending area, seasonal vendors must utilize their assigned vending area at least 15 days of each month.
- (11) A vendor may, upon written permission from the City Manager, utilize the assigned vending area on less than 15 days in any month due to vacation, illness, or other extenuating circumstance. Noncompliance will result in the assigned vendor losing the vending area and disqualifying the vendor from applying for any vending area for the period of one year.
- (12) Vending area #2 (north side of the South Park Street east of the crosswalk entering Colburn Park) is the only vending area that has access to electricity. Use of city-owned electricity requires an inspection and approval by the City Electrician. If authorized, the seasonal fee for use of this power source is \$350 which is payable in monthly installments of \$50 each or as one lump sum at time of permit issuance.

D. Abutting Business Permits:

The annual fee for an abutting business permit shall be \$125. Abutting businesses shall be entitled to a permit for the use of an area in the vicinity of their established place of business. All applications shall include the following:

- (1) Proof of identity and business address of the applicant.
- (2) A brief description of the nature, character and quality of the food, beverages, goods, or merchandise to be sold.
- (3) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- (4) Applicants must meet the requirements of the City Manager for noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
- (5) Permits shall be for the period of time designated by the applicant in the application for a permit, but in no case shall extend for more than one year. Permits must be renewed annually and are subject to all other applicable state and City regulations.
- (6) Permitted areas shall not be situated as to impede pedestrian travel. Areas may not exceed 250 square feet, unless specifically approved by the City Manager, and may be prescribed, mapped, and modified from time to time by the City Manager, depending on the needs of the City.
- (7) Permits and assigned locations are non-transferable, and the fee is non-refundable.

§ 179-5 Limitation of number and location of vending operations; nonprofit permits.

- A. As noted in § 179-6 below, the City Manager may limit the number and location of vending operations. Absent any other limiting factor, the City Manager shall not permit more than four seasonal vending areas on South Park Street.
- B. Nonprofit permits. The City Manager may designate additional vending locations within the designated areas, provided that the proceeds from all sales at the location are used exclusively for the benefit of civic, school, charitable, philanthropic, religious, or other not-for-profit organizations. These spaces shall be available on a daily basis for a consecutive

period of time and shall be assigned without charge, at the discretion of the City Manager, and according to the above procedure for permits.

§ 179-6 Restrictions applicable to all vendors.

The following restrictions shall apply to all vendors obtaining permits to operate under this Code. In addition, the City Manager may limit the number and location of permits issued based on the criteria below or for other conditions as may be set by the City Manager.

- A. Stands/carts/vehicles shall not:
 - (1) Exceed nine feet in width and 54 feet in length (including towing vehicle and trailer). Height should not exceed 13 feet.
 - (2) Impede access to the entrance of Colburn Park or any adjacent building or driveway.
 - (3) Locate within 25 feet of a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, or hospital.
- B. Hours of operation. Vendors shall be allowed to engage in the business of vending only between 7:00am and 9:00pm, except for abutting businesses operating under § **179-4D**, which shall be allowed to operate in their permitted area during their normal business hours or as otherwise provided pursuant to § **179-4D**. All vendors must leave public property during non-vending hours, except for good reason and by special waiver from the City Manager.
- C. Handicapped areas. No vendor shall block access to any handicapped parking space or access ramp.
- D. Removal of trash. All trash or debris originating from the operation of the vending stand shall be collected by the vendor and removed from public property daily.
- E. Food waste disposal – Beginning February 1, 2025, state law requires that any person generating one ton of food waste per week or greater shall not dispose of such waste in a landfill or incinerator provided that an alternative facility authorized to manage food waste is located within 20 miles. Food truck vendors are advised that the City of Lebanon solid waste facility has adequate capacity to accept food waste for purposes of compliance with the provisions of NH RSA 147-M:27, V.
- F. The area occupied by a vendor shall be limited to that area so designated by the City Manager.
- G. No vendor shall utilize an open fire in connection with the sale or display of the vendor's wares without a permit from the Lebanon Fire Department.
- H. No vendor shall shout, make an outcry, blow a horn, ring a bell, or use any other sound device for the purpose of attracting attention to any goods which the vendor proposes to sell. Vending operations must be reasonably quiet, i.e., no vending stand or vehicle shall emit excessive mechanical or compressor noise to the detriment of the environment around Colburn Park, the Lebanon Mall, or along Hanover Street in the area formerly known as "Hough Square".
- I. No vending activity shall unreasonably impede the flow of vehicular or pedestrian traffic. The City Manager may impose restrictions in addition to those listed in this section, when warranted, in order to ensure at all times the public's use of streets and sidewalks for purposes of travel.

- J. It is the intent of this chapter that goods or merchandise to be offered for sale shall consist solely of items which can easily be carried away from the sales location by customers, and which entail no special needs or problems pertaining to loading, handling, installation, or delivery, such as might interfere with vehicular traffic or with other users of Colburn Park, the Lebanon Mall, or the area along Hanover Street formerly known as "Hough Square". Heavy or bulky items such as tires, large appliances, large furniture items, motorized equipment, or the like are generally not permitted. All goods or merchandise displayed shall be for immediate sale and delivery. Displays or advertising whose primary purpose is to promote future or off-site transactions are not permitted. The City Manager may deny a permit to any vendor whose stand/vehicle/cart does not meet the intent of this subsection.
- K. No banners associated with vending operations may be displayed on the Colburn Park fence.
- L. LED signs are allowed as long as the sign stays static and is non-changeable. It cannot change colors or flash on and off, or otherwise become a nuisance or distraction to vehicular or pedestrian traffic.

§ 179-7 Grey water waste disposal.

- A. Vendors shall not dispose of grey water waste into city storm drains. Such actions are a violation of City Code Chapter 124-3 and the Code of Federal Regulations Title 4. Food service vendors are required to sign and submit a "City of Lebanon Grey Water Waste Disposal Agreement" as part of their application for a vending permit.
- B. Waiver of disposal: Any vendor who does not utilize the Lebanon Wastewater Treatment Facility as a grey water waste disposal site shall provide proof of an alternative disposal location.
- C. Grey water waste disposal is available at the Wastewater Treatment Plant. The disposal fee for seasonal vendors with grey water waste tanks, if utilized, is \$200; for daily permits is \$5; weekly permits is \$25.

§ 179-8 Suspension or revocation of permit.

- A. Any permit issued under this chapter may be suspended or revoked for any of the following reasons:
 - (1) Fraud or misrepresentation in the application for the permit.
 - (2) Conducting the business of vending contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.
 - (4) Failure to pay applicable fees.
 - (5) Unauthorized disposal of grey water waste into the City's storm drain system.
- B. Upon suspension or revocation, the city shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address.

§ 179-9 Appeals.

Persons who are denied permits or whose permits have been suspended or revoked may appeal by filing a written notice of appeal to the City Manager's Office. The appeal must be filed with the City Clerk within three working days after receipt of the notice of denial, suspension, or revocation. The City Manager shall render its decision in writing within 15 days thereafter.

§ 179-10 Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be punished as provided in City Code Chapter 1, General Provisions, or by suspension of the permit for a period to be determined by the City Manager, or both.
- B. Any person who discharges grey water waste in an unapproved location shall be subject to a fine of \$600.

Section 3: Severability.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this ordinance.

Section 4: Effective Date.

The Ordinance shall become effective upon passage.

Chapter 179

VENDORS

§ 179-1.	Declaration of purpose.	§ 179-7.	Restrictions applicable to all vendors.
§ 179-2.	Definitions.	§ 179-8.	Suspension or revocation of permit.
§ 179-3.	Permit required.	§ 179-9.	Appeals.
§ 179-4.	Permits and fees.	§ 179-10.	Penalties for offenses.
§ 179-5.	Application.		
§ 179-6.	Limitation of number and location of vending operations; nonprofit permits.		

[HISTORY: Adopted by the City Council of the City of Lebanon 8-22-1990 by Ord. No. 62. Amendments noted where applicable.]

GENERAL REFERENCES

Consumption of alcoholic beverages in Colburn Park and the Mall — See Ch. 14, Art. I.	Noise from sound amplification systems — See Ch. 110.
Removal of dog feces from Colburn Park and the Mall — See Ch. 18.	Driving and parking on the Mall — See Ch. 168, § 168-3.
Bicycles and skateboards on the Mall — See Ch. 27.	Vendor parking — See Ch. 168, § 168-7A.
	Vending machines — See Ch. 176.

§ 179-1. Declaration of purpose.

The purpose of this chapter is to provide for the regulation of sales by vendors within the general area of Colburn Park and the Mall in the City of Lebanon. This is necessary to ensure the free flow of motor vehicle and pedestrian traffic and to promote the public health, safety and welfare in that area.

§ 179-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABUTTING BUSINESS — Any legitimate business located within, whether by lease, rental or ownership, a property in the central business district abutting North or West Park Streets or the Mall area.

PUBLIC STREET OR SIDEWALK — Include all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys and any other public way.

STAND — Any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

VENDOR — Any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person.

§ 179-3. Permit required. [Amended 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

Vending activity is limited to the areas described below. It shall be unlawful for any vendor or abutting business to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a permit from the City Manager. Vending activity on private property is regulated by the Zoning Ordinance.¹

- A. South Park Street: up to five parking spaces on the north side of the street between the crosswalk entrance and the easterly corner of Colburn Park.
- B. Colburn Park, which is described as the entire area bordered by North Park Street on the north, West Park Street on the west, South Park Street on the South and East Park Street on the east, excluding the sidewalks along those streets: A maximum of four "stand" vendors will be permitted to utilize Colburn Park at any given time. Permits will be issued for daily/weekly vending only.
- C. Lebanon Mall, extending from the westerly sideline of West Park Street west and south to Hanover Street, meaning and intending to include the entire area of the Mall.
- D. Vending activity shall be unlawful on all streets, sidewalks and other public property in Lebanon, other than those listed above. However, this prohibition shall not apply to mobile vendors whose vehicle, stand or cart does not remain in any single site longer than 30 minutes, including but not limited to mobile ice cream trucks.
- E. Vending which occurs as an inherent part of an event properly licensed or permitted by the Licensing Board or the City Manager, including but not limited to a farmers' market, street fair, or alumni day, shall be exempt from the provisions of this chapter.

§ 179-4. Permits and fees. [Amended 2-20-1991 ; 10-2-1991 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

- A. Daily permits: The fee for a daily vendor permit is \$10. Applicants wishing to obtain daily permits shall apply to the City Manager prior to the desired event at a time designated by the City Manager. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
 - (1) Applicants must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit(s), hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The daily fee for use of electricity from a City-owned power supply is \$3.
- B. Weekly permits: The fee for a weekly vendor permit is \$50. Weekly permits shall be issued for the week beginning Monday and ending Sunday, and may run consecutively. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
 - (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.

1. Editor's Note: The Zoning Ordinance is on file in the office of the City Clerk.

- (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) The weekly fee for use of electricity from a City-owned power supply is \$15.
- C. Seasonal permits: The fee for a seasonal vendor permit is \$100. Seasonal permits shall be issued for four three-month periods of the calendar year as follows: January/February/March; April/May/June; July/August/September; and October/November/December. All applications shall include the following conditions: **[Amended 4-5-2023 by Ord. No. 2023-02]**
- (1) Applicants must apply to the City Manager for a space before the end of the preceding quarter (December 15 for first quarter; March 15 for second quarter; June 15 for third quarter; and September 15 for fourth quarter) and meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) When more applications are received for spaces than are available, the City Manager shall determine the allocation by lottery.
 - (3) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
 - (4) Seasonal vendors must utilize their assigned space at least 15 days of each month.
 - (5) A vendor may, upon written permission from the City Manager, utilize the assigned space on less than 15 days in any month due to vacation, illness or other extenuating circumstance. However, during the entire period of time the space is vacated by the vendor due to the approved absence, the City reserves the right to rent the space on a daily permit basis.
 - (6) Noncompliance will result in the assigned vendor losing the space and disqualifying the vendor from applying for any space for the period of one year.
 - (7) The seasonal fee for use of electricity from a City-owned power supply is \$40.
- D. Abutting business permit: The annual fee for an abutting business permit shall be \$125. Abutting businesses shall be entitled to a permit for the use of an area in the vicinity of their established place of business. All applications shall include the following conditions:
- (1) Applicants must apply to the City Manager for a space at least two weeks prior to the date that is needed and must meet the requirements of the City Manager for size of vehicle/operation, noise, state permit, hours of operation and other conditions as may be set by the City Manager.
 - (2) Permits shall be for the period of time designated by the applicant in the application for a permit. Permits must be renewed annually and are subject to all other applicable state and City regulations.
 - (3) Permitted areas shall not exceed 625 square feet in area, unless specifically approved by the City Manager, and may be prescribed, mapped and modified from time to time by the City Manager, depending on the needs of the City.
 - (4) The City Manager, in his/her reasonable discretion, may waive or modify the provisions of § 179-7A, and B as they may apply to permits for abutting businesses granted under this section.

- (5) Permits and assigned locations are nontransferable, and the fee is nonrefundable.
- E. As an alternative to the annual abutting business permit under Subsection D above, abutting businesses may also apply for daily or weekly vendor permits under Subsection A or B above. Such permits shall be subject to the same conditions as any other daily or weekly permit, except that the numerical permit limitations of this section shall not apply to abutting businesses. **[Amended 4-5-2023 by Ord. No. 2023-02]**

§ 179-5. Application.

The application for a vendor's permit shall contain all information relevant and necessary to determine whether a particular permit may be issued, including but not limited to:

- A. Proof of identity and business address of the applicant.
- B. A brief description of the nature, character and quality of the food, beverages, goods or merchandise to be sold.
- C. If employed by another, the name and business address of the person, firm, association, organization, company or corporation.
- D. If a motor vehicle is to be used in the vending business, a description of the vehicle, together with the motor vehicle registration number.
- E. A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
- F. No permit shall be issued to an applicant unless the applicant assumes liability for damages, property loss, injury or death or other related liability resulting from the activities of the vending operation. **[Amended 9-20-2000 by Ord. No. 70]**

§ 179-6. Limitation of number and location of vending operations; nonprofit permits. [Amended 10-18-1995 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

- A. As noted in § 179-4 above, the City Manager may limit the number and location of vending operations. Absent any other limiting factor, the City Manager shall not permit more than five vending locations on South Park Street adjacent to Colburn Park. Two of these locations shall be seasonal, one shall be weekly, and two shall be daily.
- B. Nonprofit permits. The City Manager may designate additional locations within the restricted areas for the peddling of wares, provided that the proceeds from all sales at the location are used exclusively for the benefit of civic, school, charitable, philanthropic, religious, or other not-for-profit organizations. These spaces shall be available on a daily basis for a consecutive period of time and shall be assigned without charge, at the discretion of the City Manager, and according to the above procedure for permits.

§ 179-7. Restrictions applicable to all vendors. [Amended 10-19-2005 by Ord. No. 2005-9 ; 8-4-2010 by Ord. No. 2010-02 ; 8-19-2015 by Ord. No. 2015-01]

The City Manager may set a limit on the number and location of permits given under the categories below:

- A. Stands/carts/vehicles stands shall not:

- (1) Exceed nine feet in width and 18 feet in length. Height should not exceed 10 feet.
 - (2) Impede access to the entrance of any adjacent building or driveway.
 - (3) Occupy more than half of the available sidewalk width.
 - (4) Locate within 25 feet of a fire hydrant, fire escape, bus stop, loading zone or driveway of a fire station, police station or hospital.
- B. Hours of operation. Vendors shall be allowed to engage in the business of vending only between 7:00 a.m. and 9:00 p.m., except for abutting businesses operating under § 179-4D, which shall be allowed to operate in their permitted area during their normal business hours or as otherwise provided pursuant to § 179-4D. All vending stands must be removed from public property during nonvending hours, except for good reason and by special waiver of the City Manager.
- C. Handicapped areas. No vendor shall block access to any handicapped parking space or access ramp.
- D. Removal of trash. All trash or debris originating from the operation of the vending stand shall be collected by the vendor and removed from public property daily.
- E. The area occupied by a vendor shall be limited to that area so designated by the City Manager.
- F. No vendor shall utilize an open fire in connection with the sale or display of the vendor's wares without a permit from the Lebanon Fire Department.
- G. No vendor shall shout, make an outcry, blow a horn, ring a bell, or use any other sound device for the purpose of attracting attention to any goods which the vendor proposes to sell. Vending operations must be reasonably quiet, i.e., no vending stand or vehicle shall emit excessive mechanical or compressor noise to the detriment of the environment around Colburn Park or Mall.
- H. No vending activity shall unreasonably impede the flow of vehicular or pedestrian traffic. The City Manager may impose restrictions in addition to those listed in this section, when warranted, in order to assure at all times the public's use of streets and sidewalks for purposes of travel.
- I. It is the intent of this chapter that goods or merchandise to be offered for sale shall consist solely of items which can easily be carried away from the sales location by pedestrians, and which entail no special needs or problems pertaining to loading, handling, installation or delivery, such as might interfere with vehicular traffic or with other users of the park and mall. Heavy or bulky items such as tires, large appliances, large furniture items, motorized equipment or the like are generally not permitted. All goods or merchandise displayed shall be for immediate sale and delivery. Displays or advertising whose primary purpose is to promote future or off-site transactions are not permitted. The City Manager may deny a permit to any vendor whose stand/vehicle/cart does not meet the intent of this subsection.

§ 179-8. Suspension or revocation of permit.

- A. Any permit issued under this chapter may be suspended or revoked for any of the following reasons:
- (1) Fraud or misrepresentation in the application for the permit.
 - (2) Conducting the business of vending contrary to the conditions of the permit.
 - (3) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

- (4) Failure to pay fee.
- B. Upon suspension or revocation, the city shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address.

§ 179-9. Appeals.

Persons who are denied permits or whose permits have been suspended or revoked may appeal by filing a written notice of appeal with the Licensing Board. The appeal must be filed within three working days after receipt of the notice of denial, suspension or revocation, with the City Clerk. The Licensing Board shall hear such appeal at its next or regular meeting and shall render its decision in writing within 15 days thereafter.

§ 179-10. Penalties for offenses.

Any person who violates any provision of this chapter shall be punished as provided in Chapter 1, General Provisions, by suspension of the permit for a period to be determined by the Licensing Board, or both.

May 22, 2024

Shaun Mulholland
City Manager
City of Lebanon, NH
51 N. Park St.
Lebanon, NH 03766

RELEASED TO THE PUBLIC
Lebanon City Manager's Office
Date: 5/30/2024 *db*

RE: Ordinance 2024-04 Chapter 179, Vendors

Mr. Mulholland,

This is a legal opinion as required by § 115-3 of the Lebanon City Code concerning the proposed Ordinance 2024-04, Chapter 179, Vendors, which your office forwarded to me on April 26, 2024 and in revised form on May 21, 2024. The goals of the proposed ordinance as I understand them are to address several issues the City has encountered with the current version of Chapter 179, including: vendors occupying larger areas than previously allotted because they frequently do not disconnect their truck and trailer; use of City electricity; and illegal dumping of grey water into the City's storm drains. The amendments will also slightly expand the area allowed for vending.

I have reviewed the proposed ordinance in detail. In my opinion, the ordinance is consistent with New Hampshire law and I discern no legal problems.

Please do not hesitate to contact me with additional questions or comments.

Sincerely,

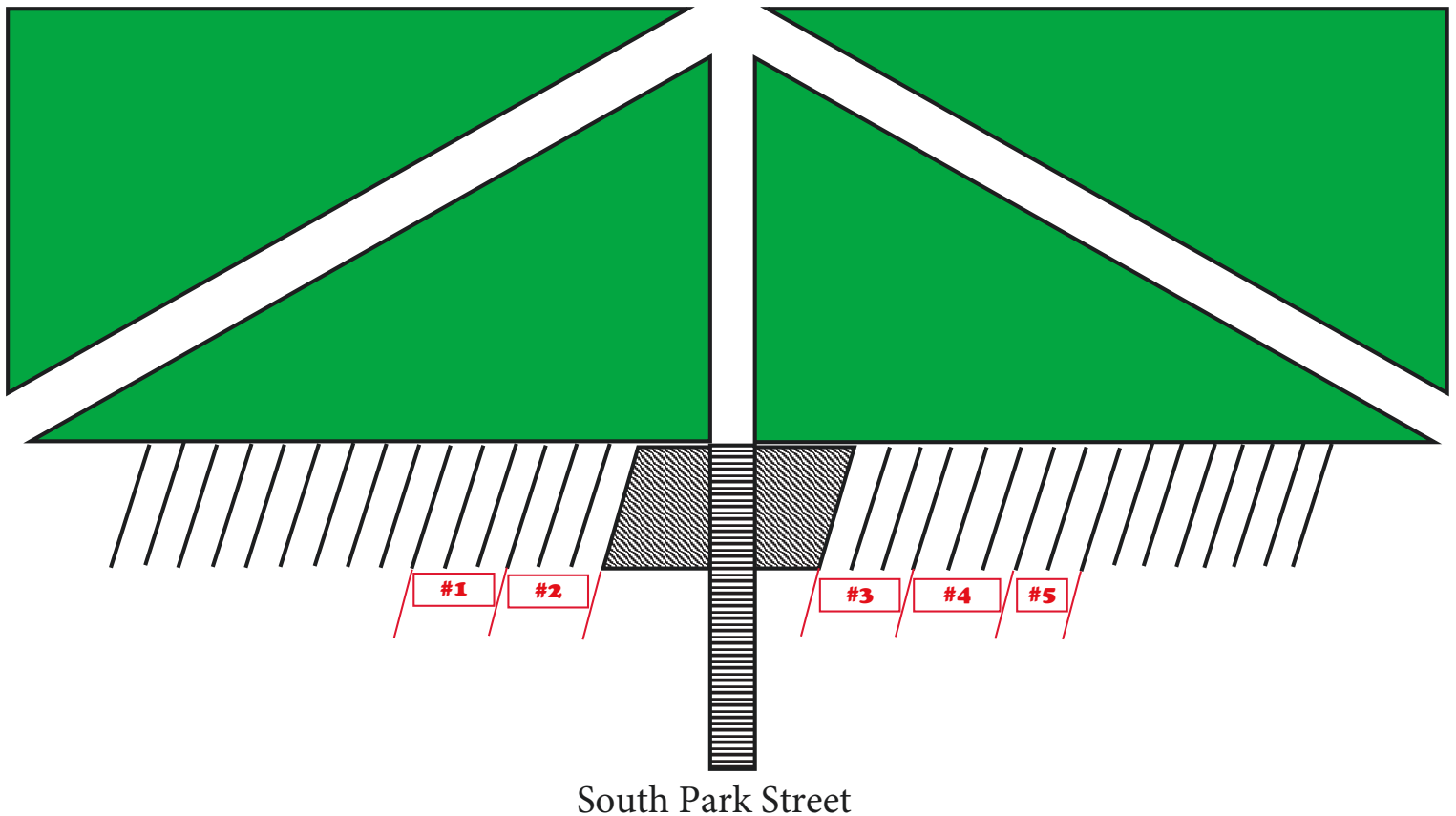
C. Christine Johnston

C. Christine Johnston

Signature: *David R. Brooks*

Email: David.Brooks@lebanonnh.gov

Vendor Parking Spaces



Spots #1, 2, 3, 4 (encompassing three parking spaces) are seasonal, \$100 per season
(*Jan, Feb, Mar/Apr, May, June/July, Aug, Sept/Oct, Nov, Dec*)
Spot #5 (encompassing two parking spaces) is daily or weekly, \$10 daily or \$50 weekly
(*smaller space; will not accommodate a food truck*)

