

Code examples:

Standards for MFUs or temporary uses that also include food truck courts/"cart pods"

Gresham

Happy Valley

Newport

Gresham

DRAFT FOOD CART CODE FOR PUBLIC DISCUSSION

Section 10.1600 Food Cart

Notes:

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New Definitions for Article 3

Food Cart. A vehicle or structure that is self-propelled, or that can be pulled, towed, pushed, or otherwise moved down a sidewalk, street, highway or waterway, in which food is cooked, prepared, processed, or converted, or which is used in selling and dispensing food or beverages to the ultimate consumer.
Food Cart Pod. Three or more Food Carts located on the same site for the purpose of selling food, beverages, or both food and beverages.

This mirrors the Multnomah County definition.

This is based on the Multnomah County definition though it uses the Grecham threshold of three carts rather than the Counties threshold of two.

GENERAL

10.1601 PURPOSE

Food Carts can provide opportunities to invigorate under-utilized non-residential sites, allow low-barrier, small-scale entrepreneurship, and provide unique eating establishments for the public. The purpose of this section is to allow such uses while regulating them in order to keep them suitable for the context and minimize required or allowed in order not to preclude future redevelopment of site.

10.1602 APPLICABILITY

- A. In districts designated for commercial, industrial (excluding Heavy Industrial) and mixed-uses: specifically, CC, CNU, DCC, DMU, DR-2, DTM, DBM, DCL, M/C, CNRM, MUE-PV, NC-PV, ORR, RTC, SC, SC-3U, TC-PV, CNTH, CNTM, VC-SW, EC-PV, GC, NC, NC-SW, GI, HI, RTI-SW, IND-SW; and
- B. In all other districts, on the sites of approved Civic, Medical, and School uses which are at least 10 acres in size; and
- C. Drive-through Food Carts are allowed only where drive-through business and retail service and trade uses are allowed.

10.1603 COORDINATION WITH OTHER REGULATIONS

- A. All Food and Beverage Carts shall meet the Fire Code (as described in GRC 10.25).
- B. All structures erected on Food Cart sites shall comply with The City of Gresham Building Code (as described in GRC 10.05) and Fire Code.
- C. Food Carts are exempt from district requirements regarding density and floor area ratio, Design District guidelines and standards, the buffers of Section 9.0100, and the parking requirements of Section 9.0800.
- D. Except as provided in 10.1613 and 10.1614, Food Carts are exempt from the requirements of Appendix 5, Shelters associated with Food Carts shall meet the grading, drainage and stormwater management standards of 9.0500.
- E. Signage for Food Carts is regulated by Appendix 6.120.
- F. Food Carts and Pods shall meet all Multnomah County Health Department regulations (including those regarding utilities, sanitation, restroom access) and maintain a valid Mobile Food Unit Operating License (and Mobile Food Pod License where appropriate).
- G. Food Carts and Pods are subject to the standards of GRC 7.25.400(4) and (7) regarding business recycling and food scrap collection.
- H. Nothing in this standard shall preclude sites including Food Carts being reviewed through and approved as Article 7 Design Review

This is new language and clarifies the use

The existing table is unnecessarily complicated. It has one row and 7 footnotes

This is the existing list of zones with the addition of all industrial zones other than Heavy Industrial.

This is existing language.

This is existing language.

2022 Oregon Fire Code (due for adoption in October) will have a chapter on Food Carts.

Clarification of applicability of Building and Fire Codes

Added exemption from buffers and parking as standards have been incorporated into this section

Clarification

More specific language than existing language

This code defers to Multnomah County on certain subjects so requires compliance with it.

Ensuring solid waste separation

This code gives a path and standards for Food Carts that are interim in nature and do not need to meet design standards. Applicants may choose to make permanent Food Carts/Pods if they are willing to meet design guidelines and standards.

STANDARDS

10.1611 STANDARDS FOR ALL CARTS

- A. Cart and seating areas may be located on existing hard surfaces or newly constructed pervious temporary hard surfaces such as pavers, cellular confinement systems (CCS)/geocells, or grasscrete. Drive aisles and stacking aisles for drive-throughs may not be placed on new hard surfaces.
 - B. Except as provided in sections 10.1613 and 10.1614 for drive-through carts and carts in pod, no new vehicle access shall be granted for food cart development and all vehicular traffic shall be restricted to existing paving. New pedestrian and bike access may be permitted provided that the pathways are permeable or no more than 8 feet wide.
 - C. Any on-site utility work for provision of utility service shall terminate in temporary connection assemblies such as those used in recreational vehicles parks. No new permanent water and sewer connections shall be allowed. Any connection to underground water, wastewater, gas, or electricity shall be temporary in nature.
 - D. Food Carts shall be located:
 - 1. Outside district setbacks, pedestrian walkways, clear vision areas, required landscaping areas, required parking and access to required parking spaces, required bike parking, and fire lanes.
 - 2. At least 3 feet from the right of way or the back of sidewalk whichever is further from the street centerline
 - 3. At least 25 feet from any driveway approach.
 - 4. A minimum of 15 feet from the site of a residential use. No minimum separation is required where carts are adjacent to residential uses on sites in the Downtown Plan District, Civic Plan District, or Rockwood Design District.
 - E. Except in the case of drive-through carts and carts in pod, if a cart is within 25 feet of a street, an active service window to the street shall be provided. If it is within 25 feet of more than one street, an active service window facing the street with the higher classification shall be provided.
 - F. Food Carts are limited to no more than 26 feet in length and 8.5 feet in width.
- 10.1612 ADDITIONAL STANDARDS FOR STRUCTURES AND COVERED OUTDOOR SEATING**
- A. Each cart shall be allowed one accessory structure (such as a storage shed). The structure shall be no more than 80 square feet in footprint and 10 feet in height.
 - B. Each cart shall be allowed an outdoor seating cover up to 200 square feet in footprint except as limited by Section 10.1614(D). Covers may be combined on a site.
 - C. Food carts (including awnings) shall be separated from shelters per Oregon Fire Code 319.2.
 - D. Outdoor seating covers for carts:
 - 1. Shall not have more than 2 walls unless they are part of a Food Cart Pod.
 - 2. May have more than 2 walls if the cart is part of a Food Cart Pod. When more than 2 walls are constructed, the walls shall be limited to 4 feet in height.
 - E. Temporary membrane structures or walls may be used only pursuant to Oregon Fire Code limitations.

<p><i>Standards need to be clear and objective</i></p> <p>This ensures food cart development it is less permanent/investment heavy to allow for easier further development temporary in nature than active transportation links. Exception to allow food carts on green-field sites and drive-through carts on sites that would require new drive aisles to be built.</p> <p>Reducing impact on existing transportation system. Car access needs to be built to higher standards and as such is less temporary in nature than active transportation links. Exception to allow food carts on green-field sites and drive-through carts on sites that would require new drive aisles to be built.</p> <p>Clarification of existing practice</p> <p>Separation between carts or between carts and other buildings or structures will be based on Oregon Fire Code. These are generally taken from existing code, just rationalized into a single standard.</p> <p>Existing standard designed to minimize spillover into the sidewalk and maximize potential landscaping such as planters or edging features carts</p> <p>Existing safety standard</p> <p>This replaces and simplifies the existing complicated buffer standard</p> <p>Requiring carts near streets to interact with the street</p> <p>Existing length standard and width reflects the largest load allowed on Oregon highways without "overstated" signage</p> <p>Standards need to be clear and objective</p> <p>Codifying existing practice.</p> <p>Allowing shelter structures up to 400 square feet on a site outside a pod.</p> <p>Draft Oregon fire code states the minimum separation is "5 feet (1.5m), or as approved by the fire code official"</p> <p>On small sites structures up to 400 square feet will be allowed to have 2 permanent walls to protect diners from the weather without complicated and expensive sprinkler and alarm requirements.</p> <p>Structures in Pods can be more endorsed as they require a more substantial review.</p> <p>Clarification that temporary walls and tents can only be allowed with fire permits and for limited times</p>
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	Standards need to be clear and objective
<p>10.1613 ADDITIONAL STANDARDS FOR DRIVE-THROUGH CARTS</p> <p>A. Drive-through stacking lanes and service areas shall not be located between the street and the Food Cart along Design Streets, in Design Districts and other locations where those elements are not allowed between a building and the street.</p> <p>B. To ensure adequate distance for at least three vehicles to line up behind the vehicle ordering at the drive-through, drive-through Food Carts shall have at least 85 feet in queuing distance behind each drive-through window where sales occur. Queuing distance shall be measured from the rear of the service window or point of service, along the queuing path, to where the driveway from the street crosses from the right of way into the property.</p> <p>C. A separate window oriented to the street shall be provided for walk-up customers. An area directly adjacent to the window a minimum of 8 feet by 5 feet shall be provided for such customers. Such areas shall be outside driveways, queuing aisles, and other vehicular paths.</p> <p>D. Carts and Pods requiring vehicle access on a site without existing approved access:</p> <ol style="list-style-type: none"> 1. Are subject to a finding of adequate public facilities regarding streets and access. 2. The new ingress and egress shall be safe and adequate when combined with the other uses of the property as required by Appendix 5. 	<p>Existing standard</p> <p>Ensuring safe pedestrian access. Existing standards have led to unsafe situations with pedestrians between cars in the drive aisle.</p> <p><i>This does not need to be clear and objective as this is a Type II review</i></p> <p>These standards are required if the City decides to allow development on green field sites.</p> <p><i>As these are Type II reviews standards do not need to be clear and objective</i></p>
<p>10.1614 STANDARDS FOR FOOD CART PODS</p> <p>A. For carts within 25 feet of the street, if a service window faces a landscape area between the cart and the sidewalk and no sidewalk entrance is located within 30 feet of the service window, a paved pedestrian path is required between the cart and the sidewalk. A grouping of carts can share one path. Pathways shall comply with the standards of Section 10.1611(A) and (B).</p> <p>B. Recycling receptacles shall be provided for customer and business waste. Receptacles shall have covers or closable tops and be washable. Recycling and food scraps shall be collected for disposal at regular intervals (not to exceed seven calendar days).</p> <p>C. Shelters shall be limited to a total area of 150 feet per cart up to a combined total of 2,500 square feet per site and meet the standards of Section 10.1612(B)-(G). Covers may be combined on a site.</p> <p>D. Sites in the Downtown, Civic, or Rockwood design districts which provide shelter over 1,000 square feet in size shall provide at least one amenity. Amenities shall be of support, vibrant, active sites and/or active transportation. Amenities are structural seating (such as seating incorporated into landscaping planters), play areas, stages, screen walls for projection of movies, bike parking facilities, and seating adjacent that is oriented to the street.</p> <p>E. A business license must be maintained for the site and designate a responsible party.</p> <p>F. Applicants who choose not to comply with these standards may apply for Design Review in accordance with Section 7.0000.</p>	<p>Multnomah County requires garbage collection but not recycling.</p> <p>Reduced per cart allowance due to the benefits of grouping.</p> <p>Larger food carts in Gresham's centers should provide</p> <p>Designated responsible parties are required by Multnomah County to allow for clearer enforcement protocols</p> <p>Clarifying that other options are available for those that wish to make a larger investment in a permanent building</p>

PROCESS

10.1621 PERMIT TYPE

Food Cart shall be required to acquire a development permit if they remain on one site more than four hours in any one day.

Table 10.1621-1: Permit Procedure for Food Cart and Pods

Proposed Activity or Request	Permit Procedure
New food cart pod (including one created by the addition of a cart or carts to a site with an existing cart)	Type II
Carts and Pods requiring vehicle access on a site without existing approved access	Type II
New stand-alone food cart or adding a food cart to an existing pod	Type I
Adding a cart to a site with a single existing cart	Type I
Adding a feature ¹ to a cart or expanding covered outdoor seating by more than 400 square feet	Type I
Expansion of covered outdoor seating by no more than 400 square feet	Type I
Replacing an approved food cart in a pod	Type I ²
Adding a new cart to a previously approved pod spot	Type I ²
Replacing an approved food cart on a site within 12 months of a previous cart being removed.	Type I ²

¹ Features include structures, covered outdoor seating and drive-throughs.
² Processed as part of the Business License application.

10.1622 DURATION

- A. A development permit for a food and beverage cart and/or pod expires one year from the date of issuance of the permit.
- B. Food Cart permits shall renew automatically with the business license except when the use has been subject to a City Code Compliance enforcement action to address an uncorrected violation as provided for in Gresham Revised Code Article 7.50. Enforcement actions include but are not limited to civil penalties, citations and abatement. If an enforcement action has occurred, the use shall be reviewed at the time of renewal following the same process and in the same manner as an application for a new permit. In such a case, the enforcement action shall be considered during the renewal application review, such as when determining conditions of approval.

Clarifying various scenarios and review types. Generally a reduction in review type to reduce barriers to smaller entrepreneurs.

Scenario	Current Procedure
Replacing an approved food cart in a pod	Business License
Adding a new cart in an approved pod spot	Type I Review
Replacing an approved food cart on a site	Type II Review
Adding a feature to a cart	Type II Review
Adding a cart to a site with an existing cart	Type II Review
New stand-alone food cart	Type II Review
New food cart pod	Type II Review

This is an existing standard and there have been implementation issues. We could also tie this to a business license or any required building permit.
 Existing standards

10.1623 REMOVAL

<p>A. Carts, shelters, temporary utility connections, and additional related site improvements (such as hard surfaces) must be removed from the site when the food cart or pod ceases operation unless an application for design review showing the site meets the applicable standards and guidelines of Article 7 are met is submitted.</p> <p>B. A recorded removal security in the form of a recorded legal agreement shall be submitted prior to issuance of the building permit or if no building permit is required at the time of business license approval. The agreement shall commit the applicant and property owner to remove the common area enclosed structure within 30 days from when the food cart permit expires. The agreement shall be finalized and recorded with the County Recorder prior to issuance of the building permit or if no building permit is required at the time of business license for its construction.</p> <p>C. A cash deposit in the amount of 110 percent of the estimated cost of removal may be submitted instead of a legal agreement.</p>	<p>Allowing improvements to stay if they meet design review standards but otherwise be removed.</p> <p>Ensuring removal before work is done.</p> <p>Ensuring removal before work is done.</p>
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Happy Valley

Happy Valley, Oregon Municipal Code Title 16 LAND DEVELOPMENT CODE ARTICLE 16.6
ADMINISTRATION OF LAND USE AND DEVELOPMENT Chapter 16.69 MISCELLANEOUS PERMITS

Show All

16.69.030 **Mobile food unit sites.**

- A. **Purpose.** Mobile food units, which are defined in OAR 333-150-0000, can provide opportunities to enliven under-utilized parking lots, allow individual entrepreneurship at a small scale, and provide unique eating establishments for the public. The purpose of this section is to allow for mobile food unit sites or “cart pods” where mobile food units (carts) can be parked on a long-term basis. As with temporary uses, permanent site improvements may not be required; however, the standards and permit processes of this section are intended to ensure that mobile food unit sites are conducted as lawful uses and in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.
- B. **Exemptions.** The following are exempt from provisions of this section:
1. Locations where mobile food units stop for less than two hours in any twenty-four (24) hour period.
 2. Locations where mobile food units are stored when not in operation are exempt from the provisions of this section; however, the storage of commercial vehicles may be subject to other requirements of the LDC.
 3. Mobile food units and other mobile vending units that are operated as part of an approved farmer’s market. [Special Event?]
- C. **Mobile Food Unit Site Standards.** The following standards apply to mobile food unit sites.
1. **Zoning.** Mobile food unit sites are not permitted in residential zones, but are permitted, as restricted, within the commercial and industrial district use tables found within this title.
 2. **Accessory Items and Structures.** Trash receptacles for customer use shall be maintained no more than ten (10) feet from the mobile food units. Portable accessory items, such as picnic tables, are permitted. With Type II approval, new accessory structures may be constructed, as follows:
 - a. A maximum of two restroom structures, provided that the combined square footage does not exceed two hundred (200);
 - b. A maximum of two storage buildings, provided that the combined square footage does not exceed two hundred (200);
 - c. One trash enclosure; and
 - d. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g., decks, picnic shelters), provided that the square footage does not exceed two hundred (200) square feet per mobile vending unit and that no single structure exceeds two hundred (200) square feet.

3. **Signs.** Signs are restricted to "A-Frame" signs only, permitted pursuant to Chapter 16.45.
4. **Minimum Setbacks and Separation Distance.** All mobile food units on the site shall be located a minimum of:
 - a. Five feet from any structure or other mobile food unit;
 - b. Ten (10) feet from any front lot line; and
 - c. Five feet from any side or rear lot line, except if such lot line abuts a residential district the minimum setback shall be twenty (20) feet.
5. **Screening.** If the mobile food unit site is located less than twenty (20) feet from a residential zoning district, the residential property shall be screened from the mobile food unit site, which may be a portion of a property including the mobile food unit, seating, queuing, etc., abutting the residential zoning district and may not necessarily extend to the shared property line.
Required screening:
 - a. May be provided by an existing, continuous, sight-obscuring structure, fence, or hedge;
 - b. If new, shall be a continuous, sight-obscuring vegetative screen; or if fencing is utilized as screening, shall be stained cedar or ornate metal. Chain-link fencing with slats shall not qualify as acceptable screening material; and
 - c. Shall have a minimum height of six feet.
6. **Setback from Vehicular and Pedestrian Use Areas.** Windows and doors used for service to customers shall be located a minimum of ten (10) feet from loading areas, driveways, on-site circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.
7. **Obstruction of Vehicular and Pedestrian Use Areas and Landscape Areas.** No mobile food unit or associated element, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, or walkways. Mobile vending units shall not occupy landscaping areas approved as part of a prior design review or other land use application. However, occupying existing on-site automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking or required to meet minimum parking requirements on the site.
8. **Surfacing.** All mobile food units shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented design review approval for the site.
9. **Driveway Access.** No new or modified driveway access is permitted.

10. **Intersection Sight Distance and Roadside Clear Zones.** The mobile food unit and any attachments or accessory items shall comply with the intersection sight distance and roadside clear zone standards of the City of Happy Valley Engineering Standards.
11. **Lighting.** Outdoor lighting shall be required per this title if not already provided by an existing use.
12. **Utilities.** To the extent that utilities are desired by the applicant or required by applicable regulations, mobile vending units shall have self-contained utilities, or if on-site utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:
 - a. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than one hundred twenty (120) days in a calendar year. For the purpose of this exception:
 - i. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent on-site by each unit.
 - ii. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.
 - b. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.
 - c. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.
13. **Sanitation Facilities.** For four carts or less, portable toilets and hand-washing facilities are permitted but may not drain to the surface. For five carts or more, utilization of existing restrooms within an existing building may be utilized, or if new, permanent restrooms shall be constructed.
14. **Sewage Disposal.** Subsurface sewage disposal is prohibited.
15. **Central Pavilions.** Subject to subsection (E)(3), outdoor seating areas, which may have roofs, floors, walls, railings, etc. are permitted, provided that the combined square footage does not exceed two hundred (200) square feet per mobile vending unit and that no single structure exceeds five thousand (5,000) square feet in size.
16. **Vendor Parking.** For any mobile food unit site requiring a Type II Design Review approval, vendor parking shall be provided in addition to the off-street parking requirements of Section 16.43.030 (Automobile parking standards) at the rate of one parking stall per mobile food unit. Vendor parking may be satisfied by the provision of off-site, shared parking agreements.

D. Mobile Food Units. The following standards apply to each mobile food unit on the site.

1. **Attachments.** Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile food unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile food unit.
2. **Accessory Storage.** Except as specifically allowed by subsection C, items relating to the mobile food unit shall be stored in, on, or under the unit.
3. **Interior Seating or Vending.** Customer seating or vending inside the mobile food unit is prohibited.
4. **Skirting.** Skirting shall be placed around the perimeter of the mobile vending unit.
5. **Drive-Thru Service.** A mobile food unit may include drive-thru service only if drive-thru service is allowed as a primary or accessory use in the zoning district in which the subject property is located. Drive-thru service shall be subject to the related provisions of this title.
6. **Other Licenses Required.** Besides meeting the requirements of this section, the operator of a mobile food unit must have an active City business license and must comply with the permit requirements of Clackamas County Environmental Health Department.

E. Permit Procedures. Mobile food unit site permits will be processed as follows:

1. **Type I.** Up to two carts on one site with no accessory structures other than trashcans and portable accessory items, such as picnic tables may be reviewed in accordance with Section 16.61.020 Type I procedure (administrative).
2. **Type II.** Up to four carts on one site and/or new accessory structures constructed in accordance with subsection (C)(2) of this section may be reviewed in accordance with Section 16.61.035 Type II-DR procedure (administrative).
3. **Five or more carts on one site and/or improvements or new accessory structures other than those permitted through Type I or Type II approval requires design review approval in accordance with Section 16.61.045 Type III-DR procedure (quasi-judicial). New structures greater than two hundred (200) square feet in size shall be subject to the Happy Valley Style Appendix "B."**

F. Submittal Requirements. An application for a mobile food unit site permit shall include the following:

1. A completed application form on a form provided by the Planning Official;
2. Information sufficient to address the standards in subsection C; and
3. A site plan of the subject property drawn to scale and including:

- a. The lot lines,
- b. The location of existing structures,
- c. The proposed boundaries of the mobile food unit site. Within the boundaries of the mobile food unit site, the location of all mobile food units, seating areas, and any accessory items or structures shall be shown,
- d. The proposed distance between the mobile vending unit site and adjacent lot lines, as well as the proposed separation distance between units and between units and other on-site structures,
- e. The type and location of any proposed on-site utility connections for mobile food units,
- f. The location of existing loading areas, driveways, on-site circulation drives, parking lot aisles, bicycle and automobile parking spaces, and walkways,
- g. The orientation of service windows and doors on the mobile food units and location of queuing areas,
- h. The location of existing landscaping, and
- i. The dimensions, height, and location of proposed A-Frame signs.

G. Conditions of Approval. The approval body may impose conditions upon the approval of a mobile food unit site permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

1. Further limiting the hours, days, place and manner of operation;
2. Requiring site and building design features which minimize environmental impacts such as noise, glare, and odor;
3. Requiring additional building setbacks;
4. Further limiting the building area and outdoor storage used by the mobile food unit site and restricting the location of the use on the site in relationship to adjoining uses;
5. Designating the size, number, location and design of vehicle access points;
6. Requiring landscaping, buffering and/or screening, of the mobile food unit site from adjoining uses and establishing standards for the continued maintenance of these improvements;
7. Requiring storm drainage improvements, and surfacing of parking and loading areas;
8. Limiting or setting standards for the location and intensity of outdoor lighting;

9. Requiring and designating the size, height and location of fences and materials used for their construction;
10. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
11. Limiting the type and number of vehicles or equipment to be parked or stored on the site;
12. Any other limitations which the staff considers to be necessary or desirable to make the use comply with this section; and
13. Any limitations or conditions imposed by the City's service providers, including but not limited to Sunrise Water Authority, Clackamas River Water, Clackamas Fire District #1, CCSD#1, CCSD#5, etc.

H. **Approval Period and Time Extension.** Unless listed as a permitted use in the underlying zone, a mobile food unit site approval is valid for four years from the date of the final written decision. If the City's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary development permits shall be obtained and maintained for the approved development. At the end of any four-year period, the applicant may apply for another four-year permit by filing a new, Type II application.

I. **Grounds for Revocation.** The Planning Official or designee may:

1. Revoke a mobile food unit site permit approval if the conditions of approval have not been or are not being complied with and the mobile food unit site is otherwise being conducted in a manner contrary to this chapter.
2. The Planning Official or designee shall approve the use as it exists, revoke the mobile food unit site permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of Happy Valley or the public. Complaints from the public shall clearly state the objection to the mobile food unit site, such as:
 - a. Generation of excessive traffic;
 - b. Generation of excessive noise or litter;
 - c. Other offensive activities not compatible with the surrounding area.
3. **Waiting Period for Reapplication.** When a mobile food unit site permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a mobile food unit site on the subject parcel will be considered.

Newport

(Unless otherwise specified, new language is shown in double underlining, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 4.10 VENDING ON PUBLIC PROPERTY

4.10.005 Findings and Purpose

- A. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- B. Unrestricted vending on public streets, sidewalks and other public places would interfere with the primary use of those public areas. However, vending on the public streets and sidewalks and upon certain public property that is limited to times and locations that minimize interference with public use promotes the public interest by contributing to an active and attractive pedestrian environment.
- C. The purpose of this chapter is to preserve the ability to use streets, sidewalks and other public places for their primary purposes while allowing limited vending in those areas to protect the public health, safety, and welfare.

4.10.010 Definitions

The following definitions apply within this chapter.

Business Vending Area. Public property determined by the City Council by resolution to be areas where vendors may sell or offer to sell food, beverages, merchandise or services from a stand.

Stand. Any table, showcase, bench, rack, pushcart, or wagon or other vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, or otherwise used in connection with any activities of a vendor. Stand does not include any item carried by a vendor and not placed on the ground or pavement for use or display.

Mobile Stand. A stand that is moved from place to place and that is engaged in vending from a single location in the public right of way for no more than 15 minutes in residential zoned areas or up to 2 hours at a time elsewhere in the city.

Fixed standStand. A stand at which vending occurs for more than 15 minutes in residential zoned areas or more than 2 hours at a time in a single location elsewhere in the city. Even

if a stand is easily movable, it is a fixed stand if it remains in place for more than 15 minutes in a residential zoned area or 2 hours elsewhere in the city in the course of a vending activity. For purposes of the definitions of "mixed-mobile stand" and "fixed stand," single location includes 100 feet in all directions.

Vending. The activity of selling or offering for sale any food, beverage, merchandise or service on public property, streets or sidewalks from a stand, from the person or otherwise.

Vendor. Any person engaged in the activity of vending, whether directly or indirectly.

Staff: The City last amended this section with Ordinance No. 2112, an ordinance that was adopted in May of 2017. That ordinance included a sunset clause that required further City Council action, a step that did not occur, meaning the changes were revoked as of January 1, 2018. Ordinance No. 2112 changed the transition point from mobile to fixed stands from 15 minutes to 30 minutes to better accommodate food trucks. The proposed change extends that timeframe further to two (2) hours. A two (2) hour transition point aligns with Oregon Health Authority regulations that require access to an accessible restroom within 500-feet of the food truck. An endorsement for mobile vending authorizes a user to lawfully park for short periods of time on public streets throughout the city. Introducing a restroom verification requirement isn't something that could be reasonably accomplished in this context. Retaining the 15-min. transition point for residential zoned areas effectively limits vending in those areas to traditional, transient operators such as ice cream sales. The reference to "residential areas" has been clarified to read "residential zoned areas" at the request of the Commission (5/24/21 work session).

4.10.015 Vending On Public Property

- A. It shall be unlawful to engage in any vending activity upon any street, sidewalk, or other public property of the city except as specifically allowed by a vending endorsement on a business license or an exemption allowed by Subsections B. or C. of this section.
- B. Vending on any city-owned or city-administered property other than rights of way or business vending areas is prohibited without a Special Event Permit issued pursuant

~~to NMC Chapter 9.80 written agreement with the city. Any vending by written agreement with the city authorized by a Special Event Permit~~ is exempt from the prohibition on vending stated in Subsection A. of this section.

- C. Vending on sidewalks by persons under 13 years of age with the permission of the adjacent property owner is exempt from the provisions of this chapter, provided that the vending activity cannot block the sidewalk. The sole remedy under this section shall be the relocation of the activity so that the sidewalk is not blocked.

Staff: Private activities conducted on public property other than rights-of-way or business vending areas require a Special Event Permit. That clarification was made with Ord. No. 2170. This section of the code is being amended to direct persons to the Special Event permitting process.

4.10.020 Application

An application for a business license with a vending endorsement shall contain the following additional information:

- A. The names, residence and business addresses and residence and business telephone numbers of each person who may be engaged in operating such business or stand.
- B. A description of the type of food, beverage, merchandise or service to be sold or offered for sale as part of the vending operation.
- C. The location(s) where any stand(s) will be located.
- D. A description and photograph or drawing of any stand to be used in the operation of the business. The requirement for a drawing or photograph may be waived for stands operated on sidewalks adjacent to the place of business of the license holder.
- E. Proof of liability insurance covering personal injury and property damage, with coverage limits of at least ~~\$500,000~~ 2,000,000, naming the city as an additional insured.

F. A valid copy of all necessary permits required by State or local health authorities, and other required licenses or permits, such as a sign permit if permissible, obtained by the applicant and maintained on site.

Staff: Insurance requirement is updated to align with current City practice. This was noted in the regulatory concept memo distributed at the 4/12/21 work session. Consistent with direction from the Commission, subsection (F) was added to ensure mobile food units operating within rights-of-way or on public property have been inspected and have all required permits before receiving a license to operate. The clause aligns with similar language that applies to private properties.

4.10.025 Vending Locations

A. Fixed stands are permitted only within:

1. Business vending area locations, or
2. The sidewalk area immediately adjacent to the applicant's place of business and the standards of Section 4.10.035 are met. Stands authorized under this agreement must be operated by the operator of the adjacent business.

B. The vending endorsement for a fixed stand shall specify the location where the fixed stand may be located and is valid only for that location.

C. The Council may, by resolution, limit the number of fixed stands at each business vending area. If the applications for a vending endorsement for fixed stands in a business vending area exceed the maximum number of fixed stands, endorsements shall be awarded by lot from the applications received by May 31 for the period beginning July 1, shall be issued on a first come, first served basis, except that preference is to be given to vendor(s) that possessed a vending endorsement to operate at the business vending area the previous fiscal year.

Staff: This change was requested by Commission members at the 7/12/21 public hearing. The rationale is that a vendor that invested time, energy and resources into a fixed stand at a business vending area should not be at risk of losing the vending opportunity every time their license is up for renewal.

- D. Vending other than from fixed stands are not specific to a location but are subject to the restrictions in Section 4.10.035(A).
- E. Vending endorsements for stands at business vending area locations are limited to one stand. Vending endorsements for areas adjacent to a permanent place of business may include more than one stand.

4.10.030 Fees

- A. ~~An endorsement application surcharge of \$10.00 or such other amount as may be established by Council resolution shall be~~ A surcharge shall be added to the business license application fee if a vendor's endorsement is applied for to recover the city's administrative costs for processing vending endorsement applications. An entity exempt from payment of the business license fee is exempt from payment of the endorsement application surcharge.
- B. An additional fee of ~~\$50.00 per calendar month of operation shall be charged for each fixed stand in a business vending areas and for each mobile stand. The endorsement shall list the months that the stand may operate. Endorsements may be amended to add months, but no refunds shall be given if the licensee does not exercise all rights under the endorsement.~~
- C. An additional fee of ~~\$50.00 per calendar month, not to exceed a total of \$250.00 per calendar year, shall be charged to holders of endorsements to operate stands adjacent to the business, as permitted by Section 4.10.025(A.)(2.).~~ The endorsement shall list the months that the stands may operate. Endorsements may be amended to add months, but no refund shall be given if the licensee does not exercise all rights under the endorsement.
- D. Vending endorsement fees shall be established by resolution of the City Council.

Staff: This section has been amended to remove references to specific dollar amounts in favor of having the fees set by resolution. It is a housekeeping change that the City has been making as sections of the Municipal Code are amended.

4.10.035 Restrictions

A. No vendor shall:

- 1(a) Vend within 500 feet of the grounds of any elementary or secondary school during the period commencing one-half hour prior to the start of the school day and ending one-half hour after dismissal at the end of the school day;

Staff: The Planning Commission received testimony from Janet Webster that the City needs to address the provision barring vending in road rights-of-way or on public property that is within 500-feet of an elementary or secondary school when school is in session (ref: 3/26/21 and 4/12/21 emails). Her concern namely relates to its potential impact on private property that she and her husband own that is not impacted by these regulations, since the Chapter 4.10 provisions are limited to road rights-of-way and public property.

The Commission considered Ms. Webster's comments when it met in work session to consider the draft amendments and indicated that it could potentially support lifting the prohibition as it relates to secondary schools (i.e. the middle and high school). Before acting upon any such change, the Commission asked staff to meet with the District. That meeting occurred on 6/23/21 and the School District provided written testimony on 6/28/21. The District requests that the City retain the existing standard, indicating, among other things, that allowing food carts could compromise a free lunch program they offer that relies upon student participation and would potentially conflict with closed campus policies that they have in place for the middle school or are considering for grades 9 and 10 at the high school. This is documented in letters dated 6/28/21 and 7/12/21. The Commission received written testimony from Janet Webster on 7/11/21, Front Street Marine, LLC (Steven Webster) on 7/12/21, and Victor Mettle on 7/12/21 objecting to the District's request and refuting their rationale, particularly as it relates to student safety and the nutritional quality of food truck/cart products.

Following the 7/12/21 hearing, the Commission requested that the District provide additional information about the

free lunch program and asked that these two options be kept on the table for further consideration on 7/26/21.

The Planning Commission received the information it requested from the District and, after taking testimony, elected to retain the existing 500-foot limitation. In doing so, the Commission accepted the District's arguments that introducing mobile food units in close proximity to secondary schools could compromise the District's free lunch program and increase truancy. Further, even with the 500-ft limitation in place, the code changes will make available a substantial amount of right-of-way to food trucks/carts, consistent with the Council's goal.

2. Vend within the City Center, Nye Beach or Bayfront parking districts, the geographic boundaries of which are defined in NMC Section 14.14.100, except within a business vending area or as authorized by a Special Event Permit issued pursuant to NMC Chapter 9.80.

Staff: This provision was added, at the Commission's request, in response to public testimony received at the 7/12/21 hearing. A request was made that food trucks/carts be limited to pods in Nye Beach and the Bayfront given the level of activity and congestion in these areas. The proposed language leaves in place the option of vendors operating within the districts if they are located within a business vending area or as part of a Special Event Permit. NMC 14.14.100 includes boundary descriptions for the districts and is logical in that it coincides with areas where timed parking is used to manage demand. After taking testimony, the Commission elected to include the language as part of its recommendation, with a request that the City Council designate a small number, possibly 2 or 3, additional business vending areas along the Bayfront sized sufficient to accommodate mobile food units. At its 9/7/21 meeting, the Council elected to add City Center to this provision.

3. Vend between the hours of 9:00 P.M. and 6:00 A.M.
4. Leave any stand unattended.
5. Sell food or beverages for immediate consumption along rights-of-way or public property that front an eating or drinking establishment or in areas where alf

litter receptacles are ~~is~~ not available within 25 feet of the vendor.

Staff: This change addresses the second bullet point in the 7/6/21 letter from Hallmark Inns and Resorts, Inc., requesting the Commission prohibit food carts/trucks from setting up in a parking space that is in front of an existing eating or drinking establishment. This would help prevent friction between users and avoids what could be viewed as unfair competition for patrons. Following the 7/12/21 hearing, the Commission confirmed that this revision is warranted.

6. Leave any location without first picking up, removing and lawfully dispersing of all trash or refuse remaining from sales made by the vendor or otherwise resulting from the vendor's activities.
7. If vending is from a stand, allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
8. If the license includes a stand, expand the stand beyond what is described in the application and allowed in the permit.
9. Vend anything other than that which the vendor is licensed to vend;
10. Violate any city ordinance regulating sound or noise.
11. Vend within any portion of ~~any~~ a vehicle travel lane portion of any within a street other than at times when the street is closed to allow vending. This prohibition does not prohibit the use of mobile stands legally parked and selling to persons not within the vehicle use travel lane ~~portion of a street~~. For the purpose of this subsection, "legally parked" means the vehicle is located within a striped parking stall or other area designated for vehicle parking.

Staff: This subsection has been revised for clarity. At its 5/24/21 work session, the Commission inquired as to whether or not a vehicle can park across multiple striped parking spaces. The Police Chief indicated that he is unaware of a law that would prevent that from occurring, so language has been added to define legally parked, in

the context of vending, as being parked within a striped stall or other area designated for parking.

12. Operate a stand without displaying a copy of the business license with the vending endorsement on the stand or engage in other vending activity without having the business license with vending endorsement immediately available for inspection.

- B. No vendor selling other than at a fixed stand shall vend at any location where the sidewalk is not at least eight feet in width, or within 10 feet of an entrance way to any building or within 20 feet of any crosswalk or intersection. No vendor shall block or allow customers to block a sidewalk.
- C. No vender shall allow his or her stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure without the owner's permission.
- D. Vending activities, whether from a stand or otherwise, shall be conducted in such a way as to not block pedestrian use of a sidewalk. Pedestrian use is considered blocked if two persons cannot pass each other walking in opposite directions.

4.10.040 Vending Stands

- A. Vending stands licensed for business vending areas shall not exceed five feet in length and five feet in height, excluding canopies and umbrellas, unless an alternative vending stand size limitation is established for a business vending area(s) by City Council resolution.

Staff: The Commission considered three options that get at the size allowances for vending stands at "business vending areas," which are public sites designated for vending by Council resolution. Areas currently designated include the plaza at the Nye Beach Turnaround (up to 3 licenses) and the lift station site at Hatfield and Bay Blvd (up to 2 licenses). One option would have retained the existing language, which limits the size of stands to a footprint that can accommodate food vending pushcarts or small tables for retail sales. Another option would have expanded the size allowance for a stand to accommodate a food truck/cart, in line with the recommendation listed under the third bullet point of the 7/6/21 letter from Hallmark Inns and Resorts, Inc. Ultimately,

they elected to recommend the above language, which gives the City Council the option of identifying, by resolution, business vending areas where stands larger than 5-ft x 5-ft are appropriate. As for that future Council resolution, the Commission would like to see it retain the 5-ft x 5-ft size limitation in Nye Beach.

- B. Umbrellas and canopies shall be a minimum of seven feet above the sidewalk. Umbrellas or canopies may not exceed 100 square feet in area.
- C. Vending stands on sidewalks adjacent to the licensee's place of business are permitted only in the following areas:
 - 1. On SW Coast Highway between SW Angle Street and SW Fall Street.
 - 2. On SW Bay Boulevard between SW Bay Street and SE Eads Street.
 - 3. On Hurbert Street between SW 7th Street and SW 9th Street.
 - 4. In the area bounded by Olive Street on the south, NW 6th Street on the north, NW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.
 - 5. Any other location designated by the Council by resolution.

4.10.045 Denial and Revocation

- A. A vendor's endorsement may be denied or revoked for any of the following causes:
 - 1. Fraud or misrepresentation contained in the application for the business license with vending endorsement.
 - 2. Fraud or misrepresentation made in the course of carrying on the vending business.

3. Conduct of the vending business in such manner as to create a public nuisance or constitute a danger or hazard to the public health, safety, or welfare.
4. Violation of any provision of this subchapter or of any other law or regulation relating to the vending business.
5. Felony convictions or misdemeanor convictions involving moral turpitude. In deciding whether to deny an application for a past conviction, the city may consider the length of time since the conviction, whether the applicant appears to have been successfully rehabilitated, and the risk to the public.
6. Failure to obtain or maintain liability insurance covering personal injury and property damage, with policy limits of at least ~~\$500,000.00~~2,000,000 and naming the city as an additional insured.

Staff: The liability insurance amount has been increased to align with the change that was made to Section 4.10.020.

4.10.050 Appeal

If an application is denied or a license is revoked, the license holder may appeal by filing a written appeal with the city manager. The deadline for an appeal of a denial is 15 days after a denial is mailed, and the deadline for an appeal of a revocation is two days after the revocation is delivered. A revocation sent by mail shall be deemed delivered two business days after the date of mailing. The Council shall hear and decide the appeal at its next regular meeting held at least 10 days after the filing of the appeal. The decision of the Council shall be final.

4.10.055 Violation

Violation of any provision of this chapter is a civil infraction, with a maximum penalty of \$500.00. Each day during which a violation shall continue is a separate offense. Violations of separate provisions are separate infractions.

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 11.05 BUILDING CODES

11.05.180 Exemptions

~~Temporary Vending Carts~~ Mobile Food Units that are permitted in accordance with the ~~Newport Zoning Code and Ordinance section 2-2-29.030~~ Municipal Code Chapter 14.09 and are not permanently attached to a foundation, they are considered vehicles (not a building or structure), and the Oregon Structural Specialty Code does not apply.

Staff: These revisions are need to address changes to terminology and to accurately cross-reference the section of the code that will regulate mobile food units.

CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES

12.15.060 Exemptions

A. The following actions are exempt from payment of SDCs:

1. Additions to multi-family and other dwelling units that are assessed SDCs on an Equivalent Dwelling Unit basis, provided the addition does not result in a new dwelling unit.
2. An alteration, addition, replacement, change in use or permit or connection that does not increase the parcel's or structure's use of a public improvement system is exempt from payment for the SDC payment applicable to that type of improvement. Some redevelopment may be subject to some types of SDCs and not to others.
3. Temporary and seasonal uses, including special events, vending carts mobile food units (other than pods), and patio or deck seating associated with eating or drinking establishments.

Staff: With this change, persons establishing a mobile food unit pod (i.e. four or more mobile food units on a property) will be required to pay system development charges commensurate to the developments impact on public services. Revisions to NMC Chapter 14.09 require that pods be connected to city wastewater services and that they offer sheltered seating to guests. These are more permanent site improvements with impacts that may be more year-round than seasonal. Three or fewer mobile food units on a property will not be required to pay SDCs.

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strike through~~. Staff comments, in *Italics*, are for context and are not a part of the revisions.)

CHAPTER 14.01 PURPOSE AND DEFINITIONS**

14.01.020 Definitions

Mobile Food Unit. Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

Mobile Food Unit Pod. Four or more mobile food units on the same lot, parcel, or tract.

Temporary Structures. Trailers, mobile homes, food units, prefabricated buildings, or other structures that can readily be moved or which are not attached in a permanent manner to a permanent foundation and are used for residential or business purposes.

~~Temporary Vending Carts.~~ A trailer or other vehicle that does not exceed 16 feet in length, has functional wheels, an axle for towing, is not attached in a permanent manner to a permanent foundation and is self-contained for sanitary sewer. A temporary vending cart may be mobile (i.e. does not remain stationary for longer than a few hours), or remain stationary, as permitted by Section 14.08.050.

Staff: The definition of mobile food unit aligns with language contained in OAR Chapter 333, Division 150, which contains Oregon Health Authority food sanitation rules. The City has discretion as to what constitutes a "Pod" where additional requirements are triggered. These definitions replace the definition for "temporary vending carts," which is deleted. Definition of temporary structures is being modified to eliminate outdated reference to mobile homes and adds reference to mobile food units. At its 5/24/21 work session, the Commission recommended that "Pods" be defined as four or more mobile food units.

CHAPTER 14.09 TEMPORARY STRUCTURES ~~PERMITS~~ USES

14.09.010 Purpose

The purpose of this section is to provide some allowance for short-term uses that are truly temporary in nature, where no permanent improvements are made to the site, and the use can be terminated and removed immediately. Temporary activities include special events as defined in 9.80.010 of the Newport Municipal Code, temporary living quarters, construction trailers, leasing offices, ~~vending carts~~ mobile food units, kiosks, storage buildings, and similar structures.

Staff: Chapter title is being changed from structures to uses, which is more consistent with the purpose statement. Mobile food units are introduced as a type of temporary use, which is appropriate given that they are vehicles.

14.09.020 Special Events Structures

Placement of special events structures is regulated under Chapter 9.80 of the Newport Municipal Code.

14.09.030 Temporary Living Quarters

Notwithstanding any other restrictions and prohibitions in this code, a recreational vehicle may be used as a temporary living quarters subject to the following conditions:

- A. The request for temporary living quarters must be in conjunction with a valid, active building permit.
- B. The time limit shall be no longer than one (1) year from issuance. After the expiration of the time limit, the recreational vehicle used for the temporary living quarters must no longer be used for on-site living purposes.
- C. The recreational vehicle used as the temporary living quarters must be self-contained for sanitary sewer.
- D. Temporary living situations for non-residential projects may use a job shack or other such structure instead of a recreational vehicle as the living quarters and may have a portable toilet instead of a self-contained unit.
- E. The location of the temporary living quarters on the site shall satisfy the vision clearance requirements as set forth in Section 14.21 of the zoning code.

- F. Prior to the issuance of a temporary living quarters permit, the applicant shall sign an agreement that the applicant shall comply with the provisions of this subsection.

14.09.040 Temporary Structures for Other Than Special Events

Notwithstanding any other restrictions and prohibitions in this code, a temporary structure not associated with a special event may be erected subject to the following:

- A. The permit, if approved, shall be issued for a period not to exceed two (2) years. Upon like application and approval, the permit may be renewed for up to an additional (1) year.
- B. Temporary structures are limited to ~~commercially and industrially~~commercial, industrial, water-related, or water-dependent zoned properties.
- C. No permanent changes will be made to the site in order to accommodate the temporary structure.
- D. Permission is granted by the property owner.
- E. Sanitary facilities will be made available to the site.
- F. The structure does not interfere with the provision of parking for the permanent use on the site.
- G. The structure satisfies the vision clearance requirements of the zoning code.
- H. Approval is obtained from the City Building Official if the structure is to be erected for 180 days or longer.
- I. For temporary structures that are to be placed in one location for 12 or more consecutive months, a bond or cash deposit for the amount required to remove the temporary structure, if not removed in the required time frame, shall be placed in an interest-bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.

Staff: Revision is housekeeping in nature. City has previously interpreted that commercial and industrial includes water-related and water-dependent zoned areas. This change makes it explicit.

~~14.09.050 — Temporary Vending Carts~~

~~Notwithstanding any other restrictions and prohibitions in this code, a temporary vending cart, not associated with a special event, may be located within the City of Newport subject to the following:~~

- ~~A. Temporary vending carts may be located on commercially-zoned property that is at least ½-mile from a permanent eating and drinking establishment.~~
- ~~B. Temporary vending carts and any accessory improvements (such as seating) are limited to privately-owned properties, and may encroach onto public property or public right-of-way only if the city consents to the encroachment as provided in Chapter 4.10 of the Newport Municipal Code.~~
- ~~C. The items available for sale from temporary vending carts are limited to food and beverages for immediate consumption. Requests to have a different item or service considered shall be submitted in writing to the City Manager, who shall determine if the item or service:
 - ~~1. Can be vended from a regulation size temporary vending cart;~~
 - ~~2. Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;~~
 - ~~3. Involve a short transaction period to complete the sale or render the service;~~
 - ~~4. Not cause undue noise or offensive odors; and~~
 - ~~5. Be easily carried by pedestrians.~~~~
- ~~D. A permit for a temporary vending cart, if approved, shall be issued for a period not to exceed two (2) years. Upon expiration of a permit, a temporary vending cart must immediately cease operation, and must be permanently removed within seven (7) days.~~
- ~~E. At least one trash and one recycling receptacle will be made available to the public.~~
- ~~F. The City of Newport receives a signed statement that the permittee shall hold harmless the City of Newport, its officers and employees, and shall indemnify the City of~~

~~Newport, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activities of the permittee. Permittee shall furnish and maintain public liability, products liability, and property damage insurance as will protect permittee, property owners, and city from all claims for damage to property or bodily injury, including death, which may arise from operations of the permittee. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. Such insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured the City of Newport, their officers and employees, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City Recorder of the City of Newport.~~

~~G. A bond or cash deposit for the amount required to remove the temporary vending cart, if not removed in the required time frame, shall be placed in an interest-bearing account in the name of the applicant and the City of Newport. Any bond or cash deposit must be in a form approved by the City Attorney.~~

Staff: This section is being replaced by Sections 14.09.050 and 14.06.060 below.

14.09.050 Mobile Food Units

Notwithstanding any other restrictions and prohibitions in this code, a mobile food unit, not associated with a special event, may be located within the City of Newport subject to the following:

- A. The lot, parcel or tract upon which the mobile food unit will be placed is zoned for commercial, industrial, or water-related use; and
- B. The lot, parcel or tract upon which the mobile food unit will be placed is located at least 500 feet from the grounds of any elementary or secondary school when said school(s) are in session. For the purpose of this subsection, "in session" is the period of time commencing one-half hour prior to the start of the school day and ending one-half hour after dismissal at the end of the school day; and

Staff: Subsection (B) responds to concerns raised in the 6/28/21, 7/12/21, and 7/24/21 letters from the Lincoln County School District, in which the District expressed concerns about

allowing food carts/trucks to locate on private property in close proximity to their facilities. This is distinguishable from their other request, which is for the City to retain the existing 500-foot separation requirement in NMC Chapter 4.10 that applies to vending within public rights-of-way or on public property. The District's principal concerns are that food trucks/carts, if located close by, could undermine the financial stability of the free/reduced lunch program that they offer, and exacerbate truancy.

The Commission received written testimony from Janet Webster on 7/11/21 and 7/25/21, Front Street Marine, LLC (Steven Webster) on 7/12/21, and Victor Mettle on 7/12/21 objecting to the District's request, asking that the District clarify how the free/reduced lunch program would be impacted and refuting their arguments related to student safety and the nutritional quality of food truck/cart products.

After taking testimony at its 7/26/21 hearing, the Commission elected to recommend the 500-foot buffer, impacting a modest number of commercial properties south of the high school and north/south of Yaquina View Elementary. There are no commercial, industrial, or water-related properties within 500-feet of Sam Case Elementary or the Newport Middle School. A map illustrating the 500-foot buffers was included in the 7/12/21 meeting packet.

C. The lot, parcel or tract upon which the mobile food unit will be placed is located outside of the City Center, Nye Beach or Bayfront parking districts, the geographic boundaries of which are defined in NMC Section 14.14.100, unless the use is a Mobile Food Unit Pod; and

Staff: This provision was added, at the Commission's request, in response to public testimony received at the 7/12/21 public hearing from the owners of the Taphouse and Chowder Bowl in Nye Beach, and Clearwater Restaurant along the Bayfront. The rationale is that there is too much congestion in these areas and that mobile food units would pull business away from established restaurants that are struggling to bounce back from the pandemic. Mobile food unit pods would be permitted in these districts. Those that testified in support of this allowance argued that Pods are more permanent, with a level of investment that is comparable to permanent eating and drinking establishments. NMC 14.14.100 includes boundary descriptions for the districts and is logical in that it coincides with areas where timed parking is used to manage parking demand. The City Council, at its 9/7/21 hearing asked that City Center be treated the same as Nye Beach and the Bayfront. A map illustrating all three district boundaries was distributed prior to ordinance adoption.

D. Written consent is obtained from the property owner where the mobile food unit is to be placed; and

Staff: The Planning Commission considered three options. The first is to require an applicant obtain written consent from the owner of the property upon which the mobile food unit(s) are to be sited. A second option would have required consent from adjoining properties as well if they were occupied by eating or drinking establishments. A third option would have required the sign-off from the subject owner and the owners of each adjoining lot or parcel irrespective of whether or not the adjoining property is developed with an eating or drinking establishment. Ultimately, the Commission elected to recommend the first option, concluding that it is most consistent with how the City approaches proposed land uses.

E. The mobile food unit is placed such that it or any associated structure does not occupy required landscaping or obstruct a sidewalk, drive isle, fire lane, clear vision area or accessible parking; and

F. 10-feet of clearance is maintained between each mobile food unit and between such units and existing or proposed buildings; and

G. Mobile food unit service windows are to be oriented to pedestrians (i.e. no drive thru windows) and if directed toward a public right-of-way shall maintain a minimum five (5) foot separation from the right-of-way; and

H. Electrical connection(s) are placed on the ground and covered with a cable protection ramp or equivalent where crossing drive isles or pedestrian paths; and

I. Any power generating equipment separate from and external to the mobile food unit is located at least 10-feet from other mobile food units and buildings and is fully screened from view; and

J. Signage associated with each mobile food unit is limited to that which is permanently affixed to the vehicle in accordance with NMC 10.10.070, and one portable a-frame sign that complies with the parameters outlined in NMC 10.10.060(E); and

K. Awnings, if any, are fully attached to the mobile food unit and located entirely on the subject lot, parcel, or tract; and

L. Each mobile food unit is limited to a single piece of outdoor cooking equipment situated no less than 10-feet from the unit and any building; and

M. A minimum of one (1) trash receptacle per mobile food unit is located on the lot, parcel, or tract with at least 10-feet of separation between the receptacle(s) and combustible fuel tanks; and

N. Mobile food units parked for more than two (2) hours or that provides customer seating shall be situated within 500-feet of an accessible restroom with handwashing facilities; and

O. The permit for a mobile food unit other than a mobile food unit pod, if approved, shall be issued for a period not to exceed two (2) years. Upon like application and approval, the permit may be renewed for additional (2) year intervals.

Staff: The provisions above apply to the placement of mobile food units on private property (as opposed to the provisions of Chapter 4.10 that apply to public rights-of-way). They draw from the code concepts discussed at the 4/12/21 work session and sample codes reviewed at that 3/22/21 work session. Some of the concepts also borrow from codes adopted by the City's of Beaverton and Corvallis. This is structured as a ministerial action with review and approval by the Community Development Department without notice, which is consistent with how other temporary uses are handled. As a ministerial action, the standards must be clear and objective.

A number of the provisions also integrate with Oregon Health Authority requirements outlined in OAR Chapter 333, Divisions 150 and 162 (enclosed) and requirements of the Oregon Building and Fire Codes. Generators are permissible but must be screened and they would be subject to decibel limitations of the City's noise ordinance.

14.09.060 Mobile Food Unit Pods

In addition to complying with the provisions of NMC 14.09.050, a mobile food unit pod may be located within the City of Newport subject to the following:

A. The mobile food units include a sheltered common customer seating area that conforms with the following parameters:

1. Has a maximum of 50 percent of the structure enclosed with walls or sides. Membrane structures may be fully enclosed; and
 2. Are not more than 15-feet in height.
- B. Each mobile food unit is connected to city sanitary sewer service, water, and a permanent power source located on the lot, parcel, or tract; and
- C. Existing uses on the lot, parcel or tract upon which the mobile food unit pod is to be located possess off-street parking that satisfies the requirements of NMC Chapter 14.14; and
- D. One off-street parking space is provided for each mobile food unit plus one space for every 150 square feet of seating; and
- E. The lot, parcel, or tract shall be landscaped in accordance with NMC Chapter 14.19; and
- F. Areas occupied by customers are illuminated when mobile food units operate during hours of darkness, with fixtures that are downward directed and shielded to prevent glare on abutting properties; and
- G. Use of generators is prohibited; and
- H. Review and approval shall be subject to a Type I decision making procedure as set forth in NMC Chapter 14.52.

Staff: Mobile food unit pods are defined as four or more units on a lot, parcel, or tract. This can be adjusted. The concept is that at this density they need to move closer towards standards that would apply to brick and mortar eating and drinking establishments. This is where the requirement that seating be provided comes into play. Given Newport's climate, a requirement that the seating be sheltered is reasonable. The limitation that a non-membrane shelter be no more than 50% enclosed helps facilitate continuity of the Pod by ensuring visibility between mobile food units and seating areas and it avoids triggering assembly occupancy and related provisions of the Oregon Structural Specialty Code that could significantly drive up the cost of a project. Connection to public water and sewer will trigger SDCs, a cost that is similarly borne by brick and mortar establishments.

Use of a permanent power source alleviates the need for generators, which could be a noise issue when several are running in a concentrated area.

Off-street parking and landscaping requirements trigger for a pod; whereas, they are not a consideration for sites with one or two mobile food units. Brick and mortar eating and drinking establishments must satisfy these same requirements.

After the Commission's 7/12/21 hearing, but prior to the 7/26/21 hearing, staff amended Subsection 14.09.050(O) and added Subsection (H). Given the level of investment associated with a Pod development, it would be difficult for the City to justify the approval being limited to two (2) years with an option for renewal every two (2) years. As Subsection (H) is structured, Pods would not be subject to land use permit renewal requirements.

14.09.060070 Permits Not Transferable Unless Approved

Permits authorized by this section are not transferable to another person or location unless approved by the Community Development Director.

14.09.070080 Approval Authority

Unless otherwise provided, placement of temporary structures is subject to review and approval by the Community Development Director as a ministerial action.

14.09.080090 Application Submittal Requirements

In addition to a land use application form with the information required in Section 14.52.080, applications for temporary structures-uses shall include the following:

A. A site plan, drawn to scale, showing:

1. The proposed location of the-temporary structures, mobile food units, seating areas, and amenities, as applicable.
2. Existing buildings.
3. Existing parking.
4. Access(es) to the parking areas.

5. Any additional structures, seating areas, and amenities associated with the ~~temporary structure use~~.
6. The location and size of trash receptacles.
7. Utilities.
8. Existing signs and signs associated with the ~~temporary structure use~~.
9. ~~Temporary structure use~~ Building elevations or photos of proposed temporary structures or mobile food units.
10. ~~The location of drive-up windows~~ (The location of an accessible restroom with handwashing facilities, if applicable).

- B. A signed agreement stating that the applicant is aware of the limitations and conditions attached to the granting of the permit and agrees to abide by such limitations and conditions.
- C. A description of the types of items sold or services rendered, if applicable.
- D. A valid copy of all necessary permits required by State or local health authorities, and other required licenses or permits, such as business license or sign permit obtained by the applicant and maintained on site.

Staff: The submittal requirements have been updated to account for mobile food units as an application type.

14.09.090100 Fire Marshal Inspection

Prior to the issuance of any permit, the Fire Marshal shall inspect and approve any temporary structure to assure conformance with the provisions of the Fire Code.

14.09.400110 Construction Trailer Exemption

Construction trailers located on the site upon which construction is to occur that are used during the course of the construction project are exempt from the process outlined in this section and may be permitted at the time of building permit approval provided said structures comply with the building code and the vision clearance requirements of the zoning code.

ITEMS NOT ON THE AGENDA:

Staff asked the Commissioners whether they desired to schedule a workshop meeting on 3/16/2023; and if so, which of their goals they wished to work on at that time. The Commissioners were in agreement that they would meet on 3/16/2023 to begin initial consideration of a code for food trucks. The Commissioners requested that staff collect representative samples of similar codes from other jurisdictions for consideration.

PUBLIC COMMENTS:

None

ADJOURNMENT: 6:35pm

NEXT PLANNING COMMISSION MEETING: March 16th, 2023 at 6:00 PM

SUPPORTING DOCUMENTS

All documents used in discussions and decisions can be viewed on Lakeside City Web Site, www.cityoflakeside.org. Look at the details of the meeting date. Oregon Freedom of Information and Public Meeting Law information can be viewed on the Open Oregon Web Site, www.open-oregon.com and by reference to ORS 192.610 through ORS 192.690

The Above meeting was open to the public. The Lakeside City Hall is handicapped-accessible. Lakeside is an Affirmative Action/Equal Opportunity Employer and complies with Section 504 of the Rehabilitation Act of 1973. All City Council Meetings are digitally recorded, available for viewing at City website: www.cityoflakeside.org and recordings are available on a flash drive for \$30.00.

March 2023

Sampling of codes related to the use of food trucks.

State law

Under state law, a food truck falls within the phrase "mobile food unit". This term also applies to hot dog carts, ice cream trucks and any other mobile platform for the sale of food and/or beverage.

The operation of a mobile food unit must comply with OAR 333-150-0000, and is regulated by the Oregon Health Authority.

Overview of state requirements:

- 1) Must be licensed by county in which the unit is operating, prior to any operation; and must also acquire any required local review, license or permit.
- 2) The units must have wheels, be mobile, and designed/constructed to move as a single piece.
- 3) All operations and equipment must be integral to the unit (one outdoor BBQ can be used)
- 4) Must have on-board fresh water and waste tanks. Unit may be connected to public water and sewer; but cannot be connected to water unless connected to sewer.
- 5) The state has a raft of other requirements for things like sinks, restrooms, seating, outdoor shelves, garbage, food storage, hygiene, food safety, etc.
- 6) Mobile food units can operate temporarily during special events (fairs, carnivals, circuses, festivals, concerts, or any other temporary public gathering)

Local code options: If these are left out of local code, operators are still required to comply. Local code can therefore include these requirements by reference; or ignore them entirely.

Oregon Small Cities Model Code

The Model Code does not contain a section for mobile food units, but does mention them as a potential form of "temporary use", and does offer a code for temporary uses. This includes subsections for "seasonal and special events"; "temporary sales office or model home"; and "temporary buildings, kiosks and other structures". It is the last of these where food trucks would fall.

Overview of Model Code for mobile food units:

- 1) The use is permitted in the zone.
- 2) Property owner has given permission.
- 3) Lot standards are met (lot size, setbacks, etc.)
- 4) Ingress/egress is adequate, safe, and does not create problems in combination with traffic from other uses of the site.
- 5) Use does not violate visual clearance codes.
- 6) There is sufficient parking for both the temporary use and other uses.
- 7) Does not create adverse off-site impacts (traffic, noise, odors, vibration, glare, lights) in a manner greater than others uses allowed outright in the zone.
- 8) Is adequately served by utilities, as applicable.
- 9) Optional: Limit on length of use (consecutive and/or total time per calendar year)
- 10) Applicant has obtained all required licenses and permits.
- 11) Vehicular access and circulation:
 - a. Driveways shall accommodate all projected vehicular traffic on-site without vehicles stacking or backing up onto a street.

- b. Driveways shall be designed so that vehicle areas, including, but not limited to, drive-up and drive-through facilities and vehicle storage and service areas, do not obstruct any public right-of-way.
- c. Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings.

City of Coos Bay

Coos Bay does not have a food truck code per se, but instead lumps this into something called “transient business”. Mobile food units are explicitly included in this classification.

Overview:

- 1) Must have all local and state licenses; this includes a local business license and a right-of-way use permit.
- 2) No sidewalk obstruction.
- 3) Must be self-contained; no waste discharge and no ropes, wires or other trip hazards on pedestrian ROWs.
- 4) If the city issues a special event permit for an area that is the approved location of a transient business, the transient business has to move for the duration of the event unless the event organizer lets them stay.
- 5) No transient business in residential areas, as long as the stay in one location is no more than 15 minutes.
- 6) No transient business within 10 feet of the entrance of any other business, nor within 50 feet of any competing business
- 7) Area must be litter-free, and the transient business removed when goods are not being sold.
- 8) No sale or consumption of alcohol.
- 9) Signage restrictions.
- 10) Proof of insurance
- 11) Limited to operation on city owned property or city ROW
- 12) Prohibited on Highway 101.

Eugene

Eugene has a “food cart” program, which also includes food trucks. These enterprises are allowed to operate under contract with the City in specified downtown areas. For units operating on City property, the City collects an application fee (essentially the same as Lakeside’s business license fee), plus the greater of monthly site rent or 6% of gross sales.

Overview:

- 1) Hold harmless agreement required.
- 2) Proof of insurance required.
- 3) City has the right to accept or reject any proposed food cart.
- 4) Agreements between the city and an operator are not transferrable.
- 5) There is a stated expectation of hours per day and days per week of service, seasonally adjusted; and a minimum number of 20 days per month.
- 6) Proposals have to include a complete list of products to be sold. City discourages duplication. Vendor may not sell items not in proposal unless they get prior approval from the city.
- 7) Operators must comply with state, county and city health requirements and inspections.
- 8) Heaters and lights must be installed in compliance with building codes.

- 9) Electrical appliances and equipment must be rated for outdoor use.
- 10) No sound amplification.
- 11) Vendor must provide their own trash container, arrange for the disposal of such trash, and keep their area free of litter. Use of city trash receptacles for vendor trash is prohibited.
- 12) City may request that vendors move for special events or cleaning. Such movement cannot be required more than 4 times per year and requires at least 2-week notice.
- 13) Operators must maintain complete, detailed and accurate records of all business transactions.
- 14) For vendors operating on privately owned property:
 - a. Owner approval required.
 - b. Units cannot take up parking spaces required by other businesses at the location.
 - c. Units are not allowed to block motor vehicle access or pedestrian ways.
 - d. Pedestrian (walk-up) traffic only is allowed (no drive-thru service).
 - e. Units should not be parked in required landscape areas.

City of North Bend

Like Coos Bay, North Bend does not have a food truck code per se, but instead lumps this into something called "transient business". Mobile food units are explicitly included in this classification.

Overview:

- 1) Requires business license, business license rider for transient business and all required health permits.
- 2) Operation as part of a special event is allowed and requires the same licensure, but fees are prorated based on the number of days that business will be conducted.
- 3) Locations restricted to commercial and industrial zones; or residential zones where there is a public park, institutional use or commercial use occupying the parcel. May only operate adjacent to state highways with permission of ODOT.
- 4) For locations outside public ROWs:
 - a. Written consent of owner
 - b. Room to pull vehicles off the roadway and adequate parking
 - c. No encroachment of parking, landscaping or setbacks of any established business
 - d. Clear sight triangles
 - e. Minimum space of 3 feet from sidewalk or curb, whichever provides greater distance from ROW
 - f. Minimum 5 feet from service windows or other customer access points and an active drive aisle
 - g. All items visible from the street in good repair and in a safe and clean condition
- 5) No license issued without evidence of passing a fire inspection
- 6) Cords, cables, pipes and similar items shall not create tripping hazards in pedestrian or vehicular areas
- 7) Signage limitations
- 8) No mobile food unit shall stop in a public ROW in a residential zone for more than 15 minutes.
- 9) Use of public property other than ROW during special events only
- 10) Drive-through service in G-C zone only, and must have at least 85 feet of queuing distance from service window.
- 11) Mobile food units in ROW may not be:
 - a. Within 20 feet of intersection
 - b. In a crosswalk

- c. In an area where stopping or parking vehicles is not allowed
- d. Less than 10 feet from another mobile food unit
- 12) Food safety inspections and sanitation as required by the county
- 13) Mobile food units shall not connect to water or sewer, unless permanent.
- 14) Prior to leaving a location, operator must collect and dispose of all trash within 25 feet of mobile food unit.
- 15) *Permanent occupancy:*
 - a. Permanently connected to sewer, water and power
 - b. Illuminated with downcast or shielded lighting when operating during hours of darkness
 - c. Requirements for both visual screening and areas of view for crime prevention
 - d. Considered as a new commercial development and subject to all requirements for new commercial development

City of Stayton

Short and concise code for mobile food units.

Overview:

- 1) Requires business license and county health and sanitation licenses.
- 2) Unless part of a special event, if in place more than 72 hours without being moved it requires review as a new land use/development.
- 3) Allowed locations:
 - a. Zones where eating/drinking establishments are a permitted use
 - b. Parking lots of manufacturing businesses, for the purpose of serving the employees of that business
 - c. City-owned property, with permission
 - d. In areas of a designated special event or street closure, during those events
- 4) Must be in approved parking lot or other hard-surfaced area.
- 5) Customer line must not block:
 - a. Sidewalk or pedestrian pathway
 - b. Driveways or drive aisles of any off-street parking
 - c. Visual triangles
- 6) Must not create any traffic or safety hazards
- 7) If parked for 24 hours or more:
 - a. Screening of all conduit, tanks and storage from all public areas and streets; or
 - b. Temporary landscaping/skirting around perimeter of mobile food unit
- 8) May not be permanent structure. Must remain capable of being moved with wheels attached.