



PLANNING COMMISSION WORK SESSION AGENDA
Monday, March 22, 2021 - 6:00 PM
City Hall, Conference Room A, 169 SW Coast Hwy, Newport, OR 97365

This will be a hybrid meeting which means that it will be held electronically, via Zoom, with a limited number of people (up to 15) allowed to attend in-person. The meeting will be live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190.

Anyone interested in making public comment is allowed to attend in-person, subject to congregant limitations (up to 15).

Anyone wishing to provide virtual public comment should make a request by noon on the day of the meeting, at publiccomment@newportoregon.gov, and ask for the Zoom meeting information.

Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. The e-mail must be received by noon on the scheduled date of the meeting. Written comments received by noon on a Planning Commission meeting date, will be included in the agenda packet. These comments will be acknowledged, at the appropriate time, by the Chair. If a specific request is made to read written public comment into the record during a meeting, staff will be provided a maximum of three minutes to read the comment during the meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER
2. UNFINISHED BUSINESS
3. NEW BUSINESS

3.A Citizen Proposal to Amend the W-2"Water-Related" Zone District to Allow Personal Service Retail Uses Subject to Conditional Use Approval.

[Memorandum](#)

[Email Exchange with Brodie Becksted, dated March 16, 2021](#)

[Personal Service Use Category \(NMC 14.03.060\(C\)\(2\)\)](#)

[Aerial Image of Property at 146 SW Bay Blvd](#)

[Map of W-2 Zoned Lands](#)

[Additional Email & Photos - Brodie Becksted](#)

3.B Background and Initial Discussion of Options for Redrafting Food Cart Rules.

[Memorandum](#)

[Email exchange with Hallmark Resorts](#)

[NMC Chapter 4.10, Vending on Public Property](#)

[NMC Chapter 14.09, Temporary Structures Permits](#)

[Prior City Ordinances and Resolutions Related to Food Carts and Food Trucks](#)

[Examples of Mobile Vending Carts and Trailers \(with dimensions\)](#)

[News Articles, Application Materials and Ordinances from sample Jurisdictions](#)

[Lincoln County Mobile Food Unit Licensing Requirements](#)

[Oregon Health Authority Operating Guidelines](#)

[Public Comment - Janet Webster](#)

3.C Results of the Transportation System Plan Regulatory Review (Tech Memo #3).

[Memorandum](#)

[Newport Transportation System Plan Update - Regulatory Review \(Tech Memo #3\)](#)

3.D Updated Planning Commission Work Program.

[PC Work Program 3-22-21](#)

4. ADJOURNMENT

Memorandum

To: Planning Commission/Commission Advisory Committee
 From: Derrick I. Tokos, AICP, Community Development Director 
 Date: March 18, 2021
 Re: Citizen Proposal to Amend the W-2/"Water-Related" Zone District to Allow Personal Service Retail Uses Subject to Conditional Use Approval

Brodie Becksted with Ocean Equity Real Estate & Investments, LLC is interested in potentially applying for a text amendment to the Newport Zoning Ordinance that would allow personal service uses, such as real estate offices, in the W-2 zone district subject to conditional use review. The application would be filed on behalf of the property owner at 146 SW Bay Blvd, as allowed by NMC 14.36.020(C). Mr. Becksted would like to relocate his real estate office to this property.

The W-2 zone district allows uses permitted outright in the C-2/"Tourist-Commercial" zone district subject to conditional use permit approval (NMC 14.03.080(18)). Personal service uses; however, are not allowed outright in the C-2 zone. They are listed as conditional uses (NMC 14.03.070(2)(c)). This was done to preserve the City's finite amount of tourist commercial land for entertainment and retail-oriented uses; recognizing that most personal service uses can reasonably locate in the City's other commercial areas. There are no other use categories in the W-2 zone that would allow for real estate offices.

Before filing the application, Mr. Becksted wanted to discuss the proposal with Planning Commission and Commission Advisory Committee members to see if anyone has concerns with the concept. His partner Heidi Rodgers is also planning to participate in the discussion. If an application is filed, then a draft set of amendments would be prepared and hearings held before the Planning Commission and City Council. As this relates to the City's limited supply of shoreland properties, it is possible that the Department of Land Conservation and Development would weigh in before the first hearing is held.

Attachments

Email Exchange with Brodie Becksted, dated March 16, 2021
 Personal Service Use Category (NMC 14.03.060(C)(2))
 Aerial Image of Property at 146 SW Bay Blvd
 Map of W-2 Zoned Lands

Derrick Tokos

From: Brodie Becksted <brodie@oceanequity.com>
Sent: Tuesday, March 16, 2021 7:08 PM
To: Derrick Tokos
Subject: Re: 146 SW Bay Blvd.

That's perfect. Let me know how to join and I'll be ready. Anyway I can add my partner Heidi Rogers on the Video conference?

Sent from my iPhone

On Mar 16, 2021, at 4:29 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Does Monday at 6pm work for you? If so, I'll put you on the work session agenda. The meeting will be held by video-conference.

Derrick

From: Brodie Becksted <brodie@oceanequity.com>
Sent: Tuesday, March 16, 2021 4:20 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: Re: 146 SW Bay Blvd.

Thank you for all the good information. I would love to pitch it to the Planning Commission at a work session. I have full support from Peter on timeframes to make it happen too.

Thanks!

On Tue, Mar 16, 2021 at 2:58 PM Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Brodie... this would require a legislative change to the Municipal Code. An applicant can initiate such a change. Attached is an application form and submittal checklist. Public hearings would be required before the Planning Commission and City Council. The State Department of Land Conservation and Development would also have an opportunity to provide input.

Let me know if you are potentially interested in pursuing this type of request and we could arrange for you to pitch the idea to the Planning Commission at a work session. That way you could get an initial read on where they might land on the issue before you submit an application.

Derrick I. Tokos, AICP
 Community Development Director
 City of Newport
 169 SW Coast Highway

Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Brodie Becksted <brodie@oceanequity.com>
Sent: Tuesday, March 16, 2021 10:12 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Heidi Rogers. - Business.
<heidi@oceanequity.com>
Subject: Re: 146 SW Bay Blvd.

Good morning Derrick -

As you know that space has always struggled to either find a tenant or a strong suitor. It's basically a house that was lived in for years and then converted incorrectly. We've also have had very little to no action on it for sale during this "hot" market and no calls for tenancy in 6 months.

I just don't see putting a little Knick knack shop that the seller will want \$2300 a month for will work or the best use.

What would be my steps in taking this in front of the City Counsel to try and get a conditional use on the building for this use?

My thoughts is this town is going to continue to hurt with commercial style properties and a ton of vacancies around town are already starting to pop up and a real estate office is a perfect use for that location.

Thanks.

Brodie.

Sent from my iPhone

On Mar 15, 2021, at 1:27 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Brodie,

A real estate office is a type of use that is not permitted at this location. Only uses permitted outright in the C-2 zone district can be established in the W-2 zone subject to conditional use approval. Real estate offices are a personal service retail use, which is a conditional use in the C-2 zone.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Brodie Becksted <brodie@oceanequity.com>
Sent: Sunday, March 14, 2021 8:45 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: 146 SW Bay Blvd.

Derrick,

Also to add to my previous email, I was also wanting some capability of doing to go beer sales and possible samples at the Real Estate office for Newport Brewing Company, possible utilization of the patio in the summer. Trying to promote both businesses with the Bayfront visibility. Just wondering if both uses could work under as well.

My brewery license offers two satellite locations, this one I would register as well with the Real Estate office but the primary use would be the Real Estate Office. Owner being the same for both.

I know both are retail but just trying to understand that W2 code better.

Thanks.

Brodie

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Brodie L. Becksted, Team Equity - Managing Director
Involved in over 200 + Million Dollars in CLOSED sales
#1 Newport Based Team in CLOSED Sales 2015, 2016 & 2017
Owner / Principal Real Estate Broker - License # 200302191
Ocean Equity Real Estate & Investments, LLC - License # 201212177
Direct 541.270.2484 / Office 541.265.8303 / eFax 866.610.5744
email : brodie@oceanequity.com / www.oceanequity.com

fabrication, services, or similar work is not carried on at the site.

2. Retail Sales and Service

- a. **Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- b. **Examples.** Examples include uses from the four subgroups listed below:
 - i. **Sales-oriented, general retail:** Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, fuel, gifts, groceries, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales. Sales oriented general retail includes the service but not repair of vehicles.
 - ii. **Sales-oriented, bulk retail:** Stores selling large consumer home and business goods, including appliances, furniture, hardware, home improvements, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
 - iii. **Personal service-oriented:** Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming.

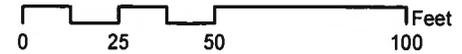


City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

146 SW Bay Blvd

Image Taken July 2018
4-inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR

The map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

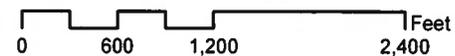




City of Newport
 Community Development Department
 189 SW Coast Highway
 Newport, OR 97385
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

Water-Related and Water-Dependent Zoning (in blue)

Image Taken July 2018
 4-inch, 4-band Digital Orthophotos
 Quantum Spatial, Inc. Corvallis, OR



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Sherri Marineau

From: Brodie Becksted
Sent: Monday, March 22, 2021 12:26 PM
To: Derrick Tokos
Cc: Sherri Marineau
Subject: Re: 146 SW Bay Blvd.
Attachments: 146 SW Bay Blvd. 6.jpg; 146 SW Bay Blvd. 4.jpg; 146 SW Bay Blvd. 3.jpg; 146 SW Bay Blvd. 5.jpg; 146 SW Bay Blvd. 7.jpg; 146 SW Bay Blvd. 2.jpg; 146 SW Bay Blvd. 1.jpg

Sherri,

Not sure if too late for pictures for their work session but wanted to make sure I sent them out. I will be on the zoom at 6pm.

Derrick,

My pitch tonight is for my Real Estate office moving locations down to this space to occupy 80-85% of the space and the main use for the property. As you can see in the kitchen area, I would also pitch a little tasting area for Newport Brewing Company and on Saturdays and Summer time would want to be able to serve samples and have 3-4 taps of beer for people to get a taste of, look at the Real Estate stuff we will provide, etc. Utilize the patio for both uses and be able to point them in the direction to the main brewery and restaurant. Serve maybe cold sandwiches, etc. It would be the same kind of use as the winery used it for but on a much smaller scale. I am mainly looking to see how I can tie both businesses if possible and get more exposure as both my locations currently have a couple exposure issues.

We are trying to compress our real estate company and move back to our niche which is walk in traffic, we don't get a lot of walk in traffic because people are driving 35-40 MPH past our building.

If they don't go for the mix use, I will still pitch just the Real Estate Office.

Attached is the tax records for sq. footage, etc too.

Tax Record Report for Parcel 111108AC at 146 SW BAY BLVD

Parcel and Account Number			
County	Lincoln	Account Number	R23854
Parcel Nbr	111108AC-11100-00-	Tax Map	111108AC
Tax Lot	11100	Parcel #3	00
Owner Information			
Owner	HEISLER PETER & HEISLER HEATHER	Owner First Name	PETER &
Owner Last Name	HEISLER	Owner Address	567 SE VISTA DR NEWPORT, OR 97365
Taxes and Property Characteristics			
Taxes	4,113.71	Tax District	104
Property Class	201	Year Built	0
Total Bedrooms	2	Property SqFt	1,391
Lot Acres	0	Zoning	W-2
Legal Description			
Legal	NEWPORT, BLOCK 7, LOT 2, DOC201301905	Neighborhood Code	N216

Subdivision BAY BOULEVARD COMMERCIAL

Property Values			
Taxable RMV	374,660	AV Land	242,450
Improvements	132,210	Assessed Valuation	223,100
Sale Information			
Sold Date	1/21/2013	Sold Price	185,000

On Thu, Mar 18, 2021 at 2:42 PM Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Brodie... I'll be out of the office tomorrow. If you send the pictures to Sherri, she can distribute them to the Commission members.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov

From: Brodie Becksted
Sent: Thursday, March 18, 2021 2:32 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Cc: Sherri Marineau <S.Marineau@NewportOregon.gov>
Subject: Re: 146 SW Bay Blvd.

[WARNING] This message comes from an external organization. Be careful of embedded links.

Thanks Derrick. Ok great.

Would it be possible to send you some pictures of the place to present to them?





WINE TASTING

WINE TASTING

WINE DOWN

NOBLE ENTRY NEWPORT

Tea











Memorandum

To: Planning Commission/Commission Advisory Committee
 From: Derrick I. Tokos, AICP, Community Development Director 
 Date: March 18, 2021
 Re: Background and Initial Discussion of Options for Redrafting Food Cart Rules

This work session has been scheduled to provide the Planning Commission and Commission Advisory Committee an opportunity to familiarize itself with Newport's existing regulations that apply to food carts and food trucks and to discuss the types of changes it would like to see to the rules. This will help staff prepare a draft set of Municipal Code revisions that would be brought forward for your initial review at the April 12, 2021 work session. Updating the City's food cart regulations is a City Council goal for the current fiscal year, and that goal was carried forward in the hope that the work will be completed in the upcoming fiscal year. It is also of interest to members of the community (see attached correspondence from Ms. Montague and Hallmark Resorts).

Like many municipalities, Newport regulates food carts and trucks differently depending upon whether or not they are located within the right-of-way or on public property versus private property. Vending within rights-of-way or on public property is regulated under Chapter 14.10, Vending on Public Property (enclosed). A business license is required in conjunction with an endorsement for either a fixed stand or mobile stand. Fixed stands are limited to locations established by City Council resolution. The last time the City adopted a resolution identifying locations for fixed based vendors was in 1986 (Res. #2680). The Council took a look at a resolution in 2017; however, no action was taken on that resolution. The City Council updated the vending ordinance in 2017 to allow larger units at fixed stand locations and it extended the length of stay at a particular location for mobile vendors from 15 minutes to 30 minutes (Ord. #2112). That ordinance was tailored to accommodate a specific vendor at the Nye Beach turnaround. There was push back from businesses in the area and the Council put a sunset clause in the Ordinance to allow the vendor to move forward on a trial basis. That sunset clause tripped and the changes were pulled from the Municipal Code. Mobile vendors that setup as part of events are permitted under NMC Chapter 9.80, Special Event Permits.

If the Commission is comfortable continuing to use this general framework to for regulating vending carts and trucks in right-of-way and on public property, then it may want to consider other properties that might be suitable for fixed base vendors, since the current allowance is limited to the Nye Beach Turnaround and the pump station property at the intersection of Bay Blvd. and Hatfield Drive. Size limitations are also a factor. Ms. Montague provided dimensions for her food truck, and a handout was prepared for the Council in 2017 with pictures and dimensions for a range of other types of carts and trucks (enclosed). With regard to mobile vendors, the Commission may want to weigh whether or not the length of time should be extended. The existing 15-minute limitation is tailored more for food delivery or traditional ice-cream truck model. Oregon City recently updated their code and categorized mobile or

“transient” vendors, as those that are at a particular location for more than 5 hours. Something akin to that allowance might better accommodate a food truck that is targeting shift workers at a plant, or is set up to vend at a sporting event. Mobile vending licensing could also be extended to private property, if there is sufficient parking.

Fixed based vending on private property is regulated under the chapter of the Newport Municipal Code that applies to the permitting of temporary structures (Chapter 14.09). The relevant section is NMC 14.09.050 for temporary vending carts. These regulations were adopted in 2010 as part of an applicant initiated set of amendments (Ord. #2001). The owner of the Wilder planned development submitted that application in the hope that they could attract a food cart(s) to serve the community college. This was before they moved forward with brick and mortar commercial development. They did not want to be perceived as competing with established restaurants, and were comfortable with a prohibition on food carts within ½ mile of a permanent eating and drinking establishment as it met their needs at the time. This limitation, codified under NMC 14.09.050(A), prohibits fixed-based vending from food carts or trucks on most private property in the city.

City’s often prohibit food carts and food trucks from vending in residential areas, except for the traditional ice cream truck business model, and they commonly impose health safety and nuisance related standards applicable outside of the unit, including:

- Limitations on use of overhead power (safety)
- Prohibitions on the use of outside generators (noise)
- Linking seating to the availability of on-site restrooms (sanitation)
- Trash management requirements (sanitation)
- Restrictions on blocking sidewalks or using parking relied upon by other uses (safety/congestion).

Some of these issues are addressed in NMC 14.09; however, this is an opportunity to take a fresh look at the requirements. Many jurisdictions allow for connection to city services, particularly in cases where food cart pods are setup. This could be within or outside of an enclosed space. The Commission may want to consider whether impact fees, such as System Development charges (SDCs) should be payable in certain circumstances. The City’s current SDC ordinance exempts vending carts under the premise that the impact is temporary. Included in the packet are news articles, application materials, and ordinances from a few jurisdictions that have recently updated or are in the process of updating their food cart/truck rules (Lincoln City, Oregon City, Albany, and The Dalles). It is a small sampling that provides a sense of how other municipalities are accommodating food carts and trucks.

While City regulations generally address where food carts and trucks are allowed and the siting standards they must adhere to, ensuring the safety and sanitation of the unit itself is the purview of County Health Departments. Attached is information about Lincoln County’s licensing program and a set of operating guidelines developed by the Oregon Health Authority.

Attachments

Materials from Ms. Montaque, 3/15/21 City Council meeting)
 Email exchange with Hallmark Resorts
 NMC Chapter 4.10, Vending on Public Property
 NMC Chapter 14.09, Temporary Structures Permits
 Prior City Ordinances and Resolutions Related to Food Carts and Food Trucks
 Examples of Mobile Vending Carts and Trailers (with dimensions)
 News Articles, Application Materials and Ordinances from sample Jurisdictions
 Lincoln County Mobile Food Unit Licensing Requirements / Oregon Health Authority Operating Guidelines

Derrick Tokos

From: Beth Young
Sent: Tuesday, February 9, 2021 1:40 PM
To: 'Ric Rabourn'; Derrick Tokos
Subject: RE: Hallmark Resort and Georgie's Beachside Grill

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Mr. Rabourn,

To answer your first question: yes, that is correct.

Community Development Director Derrick Tokos would be better able to answer the other questions so I am sending this response to him as well as you.

Beth

From: Ric Rabourn <ric@hallmarkinns.com>
Sent: Tuesday, February 09, 2021 12:28 PM
To: Beth Young <B.Young@NewportOregon.gov>
Cc: Eric Seil <eseil@hallmarkinns.com>
Subject: Fw: Hallmark Resort and Georgie's Beachside Grill

Good afternoon Beth,

I was hoping to clarify a couple of items:

1. In the municipal code, there is no differentiation between a food truck and a "temporary vending cart", is that correct?
2. My historical understanding of the intent of 14.09.050 (1/2 mile) was to keep a business from parking a food truck outside of, or near, a competitor's location. For example, Georgie's should not be able to park our food truck on the bayfront within a half-mile of any of our competitors. Is that an incorrect interpretation of the code?
3. If that was the intent, would there be the possibility of amending this section to allow for a business to operate a food truck on their own property?

If it would be helpful, please feel free to call me at 541.961.0802 to discuss further.

Thank you,

Ric

Ric Rabourn

President & CEO

Hallmark Inns & Resorts

W: hallmarkinns.com

Office: [503-635-4555](tel:503-635-4555) | Direct: [503-343-2314](tel:503-343-2314)



From: Eric Seil <eseil@hallmarkinns.com>
Sent: Tuesday, February 9, 2021 11:47 AM
To: Ric Rabourn <ric@hallmarkinns.com>
Subject: FW: Hallmark Resort and Georgie's Beachside Grill

Hello Ric- I just got this. I have not reviewed it yet but wanted to send it over right away. Thank you!

Eric Seil

General Manager

Hallmark Resort Newport
Georgie's Beachside Grill

W: hallmarkinns.com/newport

E: eseil@hallmarkinns.com

Direct: [541-574-6860](tel:541-574-6860)



From: Eric Seil <eseil@hallmarkinns.com>
Sent: Tuesday, February 02, 2021 12:50 PM
To: Beth Young <B.Young@NewportOregon.gov>
Subject: Hallmark Resort and Georgie's Beachside Grill

Hello Beth- I wanted to follow up on our conversation we had on Friday and see if you were able to find out any more information with regards to a food truck in our parking lot? I look forward to hearing back and hope you are having a great day.

Thank you!

Eric Seil
General Manager

Hallmark Resort Newport
Georgie's Beachside Grill

W: hallmarkinns.com/newport
E: eseil@hallmarkinns.com
Direct: 541-574-6860

HALLMARK
INNS & RESORTS



From: Beth Young <B.Young@NewportOregon.gov>
Sent: Tuesday, February 9, 2021 10:40 AM
To: Eric Seil <eseil@hallmarkinns.com>
Subject: RE: Hallmark Resort and Georgie's Beachside Grill

Hello,

Recently you asked about the possibility of a food cart on your property, which we call temporary vending carts. You will not be able to do this per Newport Municipal Code NMC 14.09.050(A): "Temporary vending carts may be located on commercially-zoned property that is at least ½ mile from a permanent eating and drinking establishment." NMC 14.09.050(C) stipulates that "The items available for sale from temporary vending carts are limited to food and beverages for immediate consumption."

Attached is the Newport Municipal Code for your convenience. In particular you may want to look at

- NMC 14.09.040 Temporary Structures for Other Than Special Events
- NMC 14.19.050 Temporary Vending Carts

If you prefer to erect a tent or other temporary structure, you will need a Temporary Structure Permit per NMC 14.09.040. Other eating establishments in Newport have recently applied for and received TSP's for tents (The Coffee House, Nana's). Attached is information on TSP's: TSP Agreement, TSP Checklist and a Land Use Application.

Beth



Beth Young, MCRP

Associate Planner

(she/her/they/their)

Direct line 541-574-3341

Community Development Department, 169 SW Coast Hwy, Newport OR 97365

Emails to and from this address are public record per Oregon Public Records Law.



Think before printing - keep the planet **VERDE**

Covid Precautions

City Hall is open Mondays through Thursdays until 2 p.m. and all other times by appointment only. Visitors must not be experiencing any Covid symptoms, must wear masks, and will have their temperature taken.

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 at a time.

Fixed stand. A stand at which vending occurs for more than 15 minutes at a time in a single location. Even if a stand is easily movable, it is a fixed stand if it remains in place for more than 15 minutes in the course of a vending activity. For purposes of the definitions of “mixed stand” and “fixed stand,” single location include 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.

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 written agreement with the city. Any vending by written agreement with the city 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.

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, naming the city as an additional insured.

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.
- D. Vending other than from fixed stands are not specific to a location but are subject to the restrictions in [Section 4.10.035A](#).

- 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 added to the business license application fee if a vendor's endorsement is applied for. 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.

4.10.035 Restrictions

- A. No vendor shall:
 - 1. 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;
 - 2. Vend between the hours of 9:00 P.M. and 6:00 A.M.

3. Leave any stand unattended.
 4. Sell food or beverages for immediate consumption if litter receptacles are not available within 25 feet of the vendor.
 5. 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.
 6. 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.
 7. If the license includes a stand, expand the stand beyond what is described in the application and allowed in the permit.
 8. Vend anything other than that which the vendor is licensed to vend;
 9. Violate any city ordinance regulating sound or noise.
 10. Vend within any portion of any vehicle travel lane portion of any 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 portion of a street.
 11. 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.
- 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 and naming the city as an additional insured.

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.

(Chapter 4.10 adopted by Ordinance No. 1935 on September 4, 2007; effective October 4, 2007)

CHAPTER 14.09 TEMPORARY STRUCTURES PERMITS

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, kiosks, storage buildings, and similar structures.

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 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.

(Section added by Ordinance No. 1644 (9-8-92); amended by Ordinance No. 1731 (10-16-95); and section amended in its entirety by Ordinance No. 2001 (4-4-10)*

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.

14.09.060 [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.

14.09.070 [Approval Authority](#)

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

14.09.080 [Application Submittal Requirements](#)

In addition to a land use application form with the information required in [Section 14.52.080](#), applications for temporary structures shall include the following:

- A. A site plan, drawn to scale, showing:
 - 1. The proposed location of the temporary structure, 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.
 - 6. The location and size of trash receptacles.
 - 7. Utilities.
 - 8. Existing signs and signs associated with the temporary structure.
 - 9. Temporary structure building elevations or photos.
 - 10. The location of drive-up windows (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.

14.09.090 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.

14.09.100 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.

CITY OF NEWPORT

ORDINANCE NO. 2112

AN ORDINANCE AMENDING
CHAPTER 4.10 OF THE NEWPORT MUNICIPAL CODE
PERTAINING TO VENDING ON PUBLIC PROPERTY

WHEREAS, the City of Newport Charter provides that the City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant; and

WHEREAS, the above referenced grant of power has been interpreted as affording the City all legislative power under the home rule provisions of the Oregon Constitution; and

WHEREAS, this ordinance makes targeted changes to City standards that apply to persons seeking permission to vend on public property, providing mobile vendors additional time to vend within the public right-of-way before they are required to move, allowing larger carts within designated fixed vending locations, and allowing fees the City collects for the purpose of processing vending applications to be set by Council resolution; and

WHEREAS, the purpose of this ordinance 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; and

WHEREAS, the changes proposed with this ordinance provide a reasonable degree of added flexibility for persons desiring to vend on public property while respecting the purpose of the ordinance as described herein.

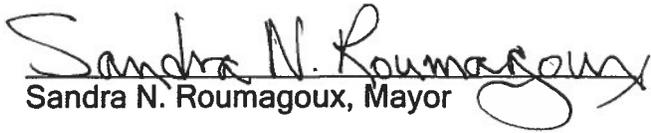
THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Chapter 4.10 of the Newport Municipal Code is hereby amended as shown in the attached Exhibit A.

Section 2. This ordinance will sunset on December 31, 2017 with subsequent review by the City Council at the first regular meeting in January of 2018.

Section 3. This ordinance being necessary for immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect immediately upon passage.

Adopted by the Newport City Council on the 15th day of May, 2017.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

(Note: New language is shown with double underline, deleted language is shown in ~~strikethrough~~. Staff comments are in *italics* and are not a part of the proposed amendments.)

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~~30 minutes at a time.

Fixed stand. A stand at which vending occurs for more than ~~15~~30 minutes at a time in a single location. Even if a stand is easily movable, it is a fixed stand if it remains in place for more than ~~15~~30 minutes in the course of a vending activity. For

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

purposes of the definitions of “~~mixed mobile stand~~” and “fixed stand,” single location include 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 proposed change provides a more realistic timeframe for food trucks or other mobile vendors serving employees at fish processing facilities and other areas of employment. A typographical error in the definition of “fixed stand” has also been corrected.

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 written agreement with the city. Any vending by written agreement with the city 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.

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

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

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, naming the city as an additional insured.

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.
- D. Vending other than from fixed stands are not specific to a location but are subject to the restrictions in Section 4.10.035A.

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

- 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 ~~to recover the city's administrative costs for processing vending endorsement applications~~ vendor's endorsement is applied for. 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. All 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:

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

1. 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;
 2. Vend between the hours of 9:00 P.M. and 6:00 A.M.
 3. Leave any stand unattended.
 4. Sell food or beverages for immediate consumption if litter receptacles are not available within 25 feet of the vendor.
 5. 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.
 6. 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.
 7. If the license includes a stand, expand the stand beyond what is described in the application and allowed in the permit.
 8. Vend anything other than that which the vendor is licensed to vend;
 9. Violate any city ordinance regulating sound or noise.
 10. Vend within any portion of any vehicle travel lane portion of any 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 portion of a street.
 11. 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

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

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 sixteen (16)~~ feet in length and ~~five ten (10)~~ feet in height, excluding canopies and umbrellas.
- 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.

5-8-17 Revisions to Newport Municipal Code Chapter 4.10, Vending on Public Property

5. Any other location designated by the Council by resolution.

Staff: These changes accommodate larger vending carts. Trailer hitched vending carts cannot meet the 5-foot maximum length limitation and the 5-foot maximum height limit prohibits enclosed carts. The sixteen (16) foot maximum length allowance also matches up with the definition of "temporary vending cart" in the definition section of NMC Chapter 14, which applies to vending on private property. That definition reads:

"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 14.09.050."

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.

CITY OF NEWPORT
RESOLUTION NO. 3776

RESOLUTION ESTABLISHING FEES FOR
VENDING ON PUBLIC PROPERTY

WHEREAS, the Newport City Council adopted Ordinance No. 2112, pertaining to vending on public property, on May 15, 2017; and

WHEREAS, Ordinance No. 2112 provides for a charge to be added to business license application fees to recover the City's administrative costs for processing vending endorsement applications; and

WHEREAS, Ordinance No. 2112 further requires that an additional fee be charged for each fixed stand in a designated vending area, for each mobile stand, and for each holder of an endorsement to operate a stand on public property adjacent to their business.

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. The vending endorsement application fee shall be \$10.00.

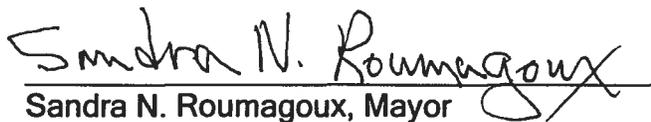
Section 2. The fee for each fixed stand in a business vending area, and for each mobile stand, shall be \$50.00 per calendar month of operation.

Section 3. The fee charged to holders of endorsements to operate stands on public property adjacent to their business shall be \$50.00 per calendar month, not to exceed \$250 per calendar year.

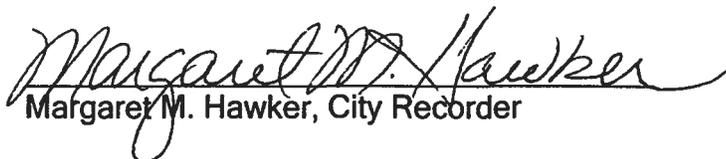
Section 4. This resolution shall become effective immediately upon passage.

Adopted by the Newport City Council on May 15, 2017.

Approved by the Mayor on May 16, 2017


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

**CITY OF NEWPORT
RESOLUTION NO. 3777**

**RESOLUTION ESTABLISHING BUSINESS VENDING AREAS
ON PUBLIC PROPERTY WITHIN THE CITY OF NEWPORT**

WHEREAS, Newport Municipal Code Chapter 4.10 sets out standards for vending along streets, sidewalks and other public places; and

WHEREAS, such standards provide that the City Council, by resolution, may establish designated business vending areas and limit the number of fixed stands permitted within a given area; and

WHEREAS, it has been more than 30-years since the City Council adopted a resolution amending the list of designated business vending areas (Resolution No. 2680); and

WHEREAS, designated business vending areas, established with Resolution No. 2680, include public property that has since been developed with other uses such that it is no longer suitable for vending; and

WHEREAS, it is necessary that the City Council update the list of designated business vending areas so that interested parties have a clear understanding of the locations within the City where vending from a fixed stand is potentially permissible.

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. Designated business vending areas shall be limited to that portion of the Nye Beach Turnaround and the Hatfield Drive Pump Station Property depicted on Exhibit A.

Section 2. The number of vending endorsements which may be issued for such areas shall be as follows:

- (a) Nye Beach Turnaround – Three (3) licenses.
- (b) Hatfield Drive Pump Station Property – Three (3) licenses.

Section 3. This resolution supersedes and replaces all prior resolutions establishing designated business vending areas on public property.

Section 4: This resolution shall become effective immediately upon passage.

Adopted by the Newport City Council on May 15, 2017.

Approved by the Mayor on _____, 2017.

Sandra Roumagoux
Mayor

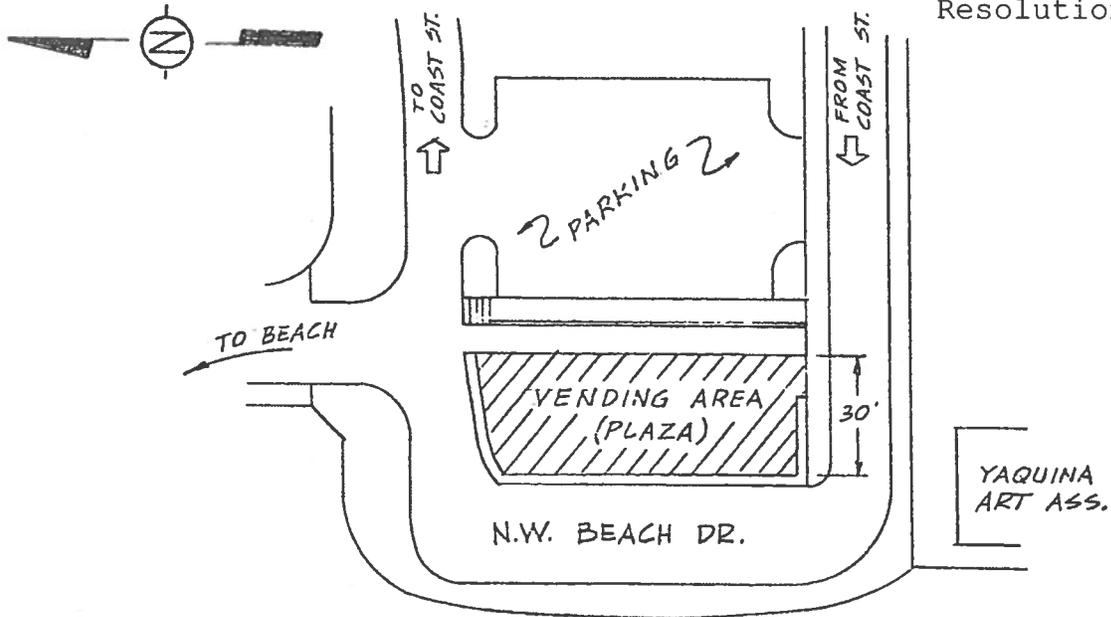
ATTEST:

Margaret M. Hawker
City Recorder

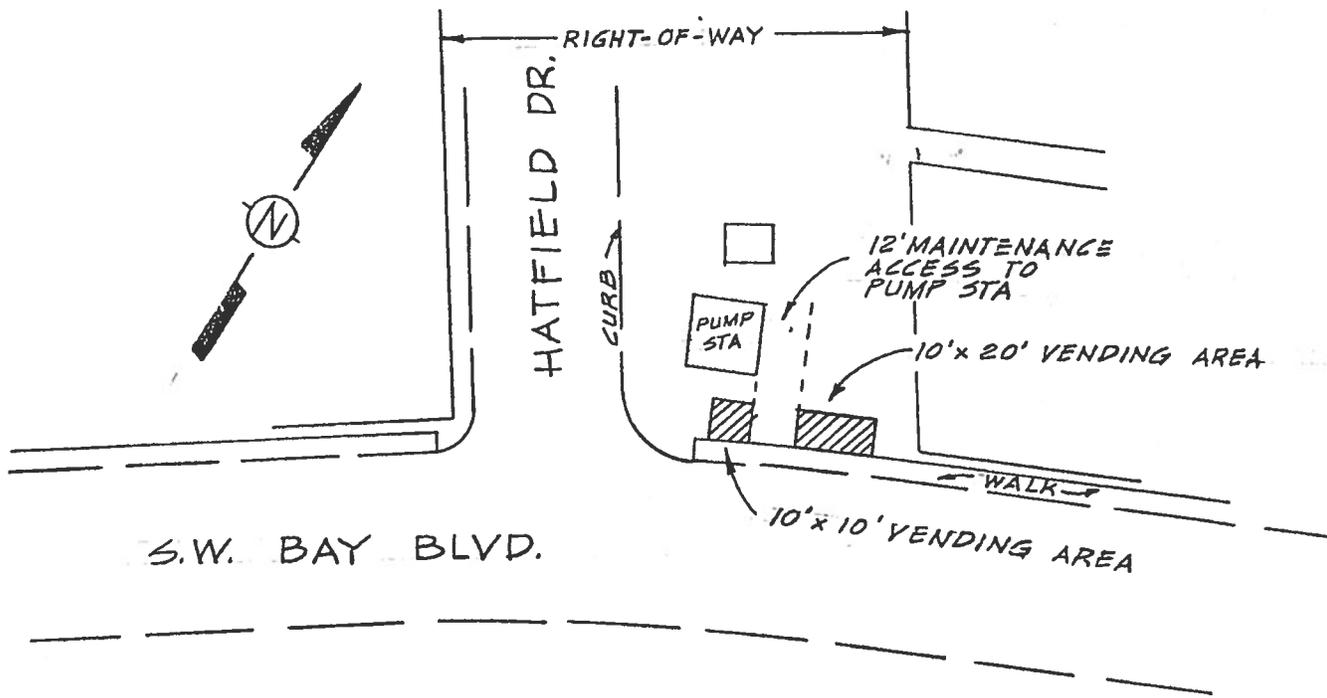
DRAFT

Exhibit A

Resolution No. 3777



NYE BEACH TURNAROUND
VENDING AREA
 SCALE: 1" = 50'



VENDING AREA
 SCALE: 1" = 50'

CITY OF NEWPORT

RESOLUTION NO. 2680

A RESOLUTION AMENDING RESOLUTION NO. 2348 OF THE CITY OF NEWPORT, ENTITLED "A RESOLUTION DETERMINING LICENSE FEES AND BUSINESS VENDING AREAS IN ACCORDANCE WITH THE PROVISION OF CITY OF NEWPORT ORDINANCE NO. 1305."

WHEREAS, City of Newport Ordinance No. 1305 provides for the establishment, by Resolution, of certain designated business vending areas, and,

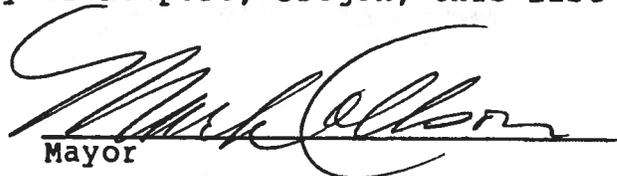
WHEREAS, on or about July 6, 1982, Resolution No. 2348 of the City of Newport was adopted designating certain locations as designated business vending areas, and

WHEREAS, it has been determined that business vending in that area described as the "Case Street End" is not in the best interests of the public,

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 2348 of the City of Newport be amended by deleting therefrom Subsection (D) of Section 3 of said Resolution.

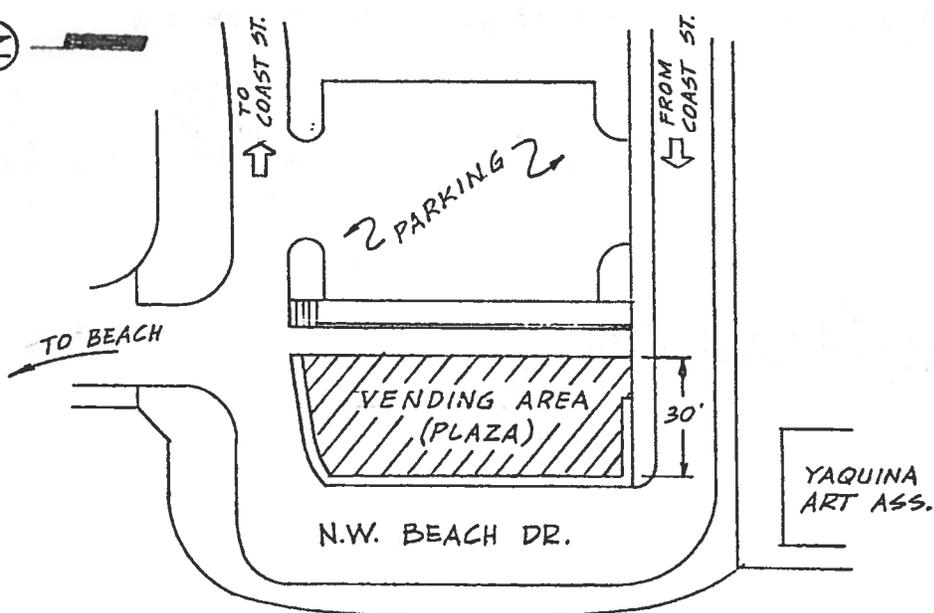
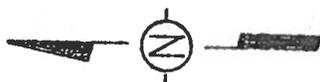
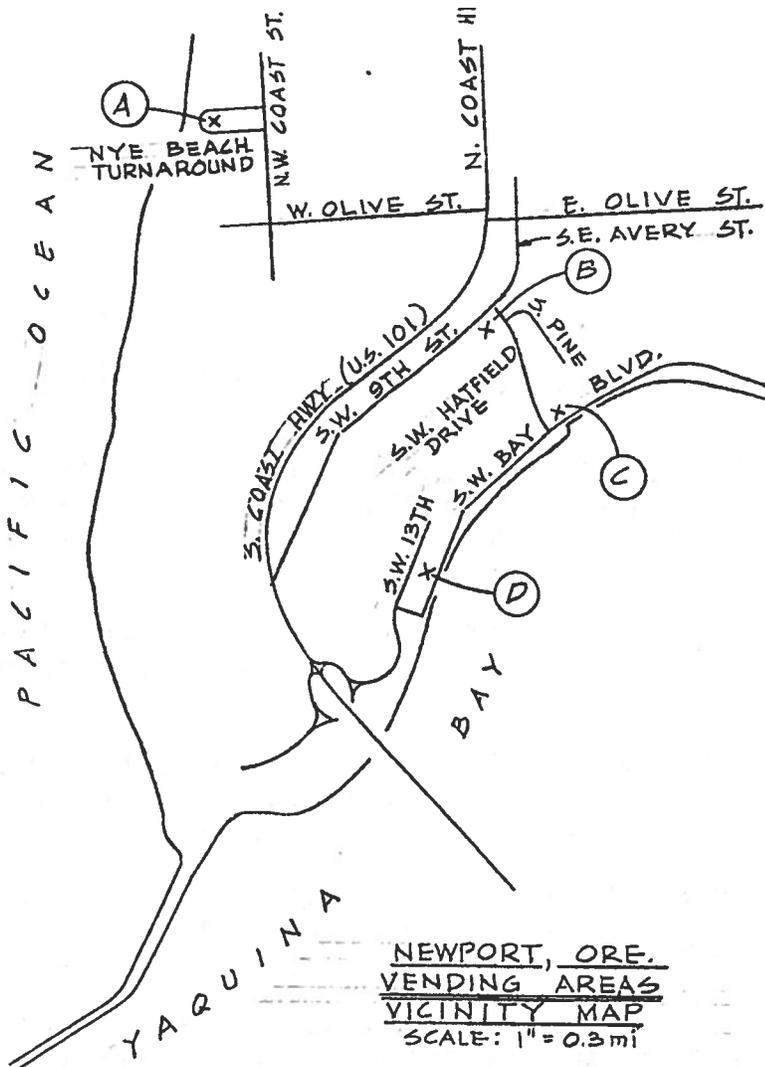
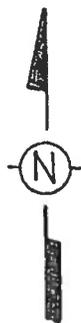
Adopted by the Common Council of the City of Newport, Oregon, this 21st day of July, 1986.

Approved by the Mayor of the City of Newport, Oregon, this 21st day of July, 1986.

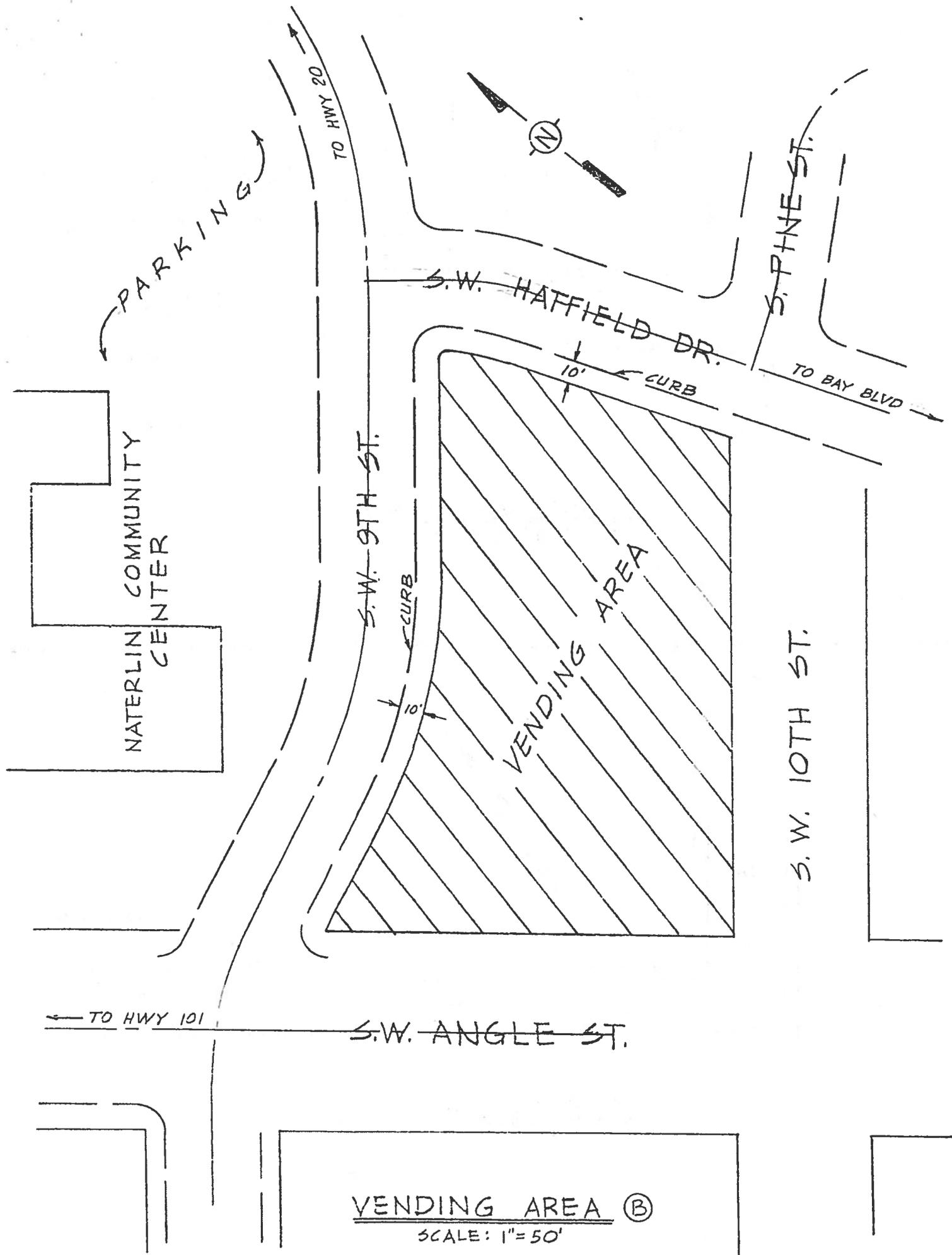

Mayor

ATTEST:


City Recorder

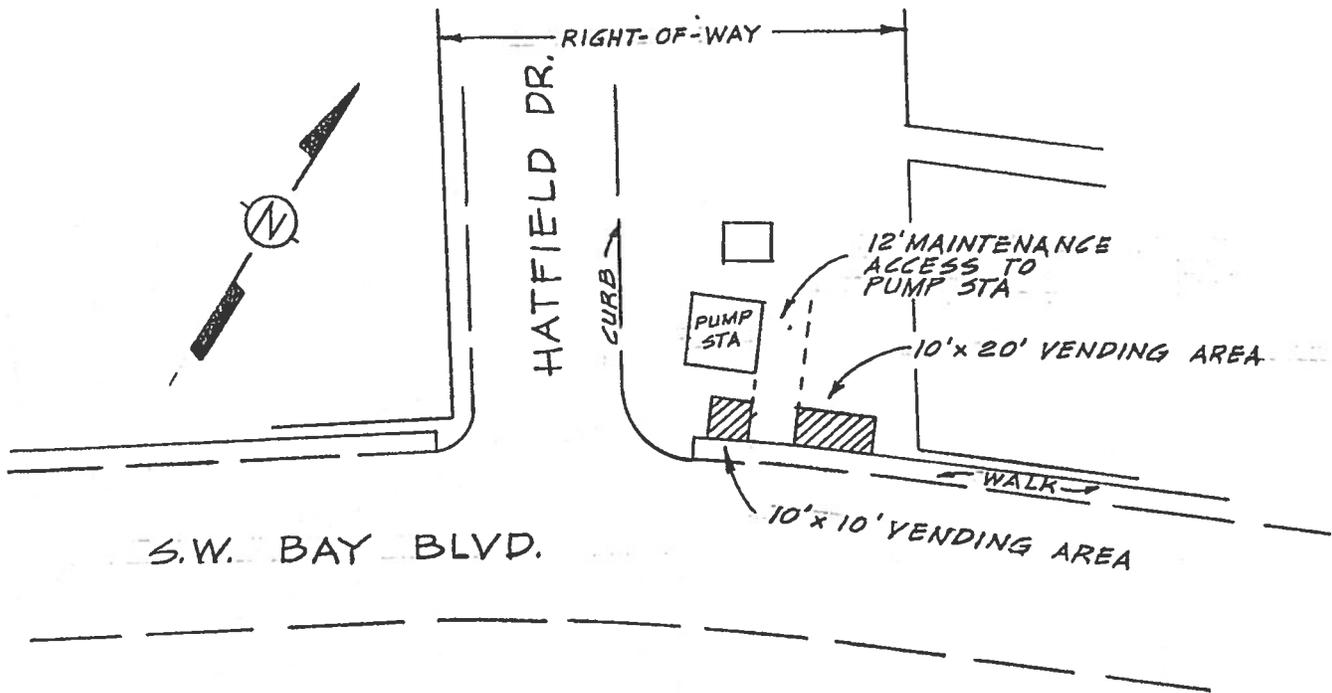


NYE BEACH TURNAROUND
 VENDING AREA (A)
 SCALE: 1" = 50'

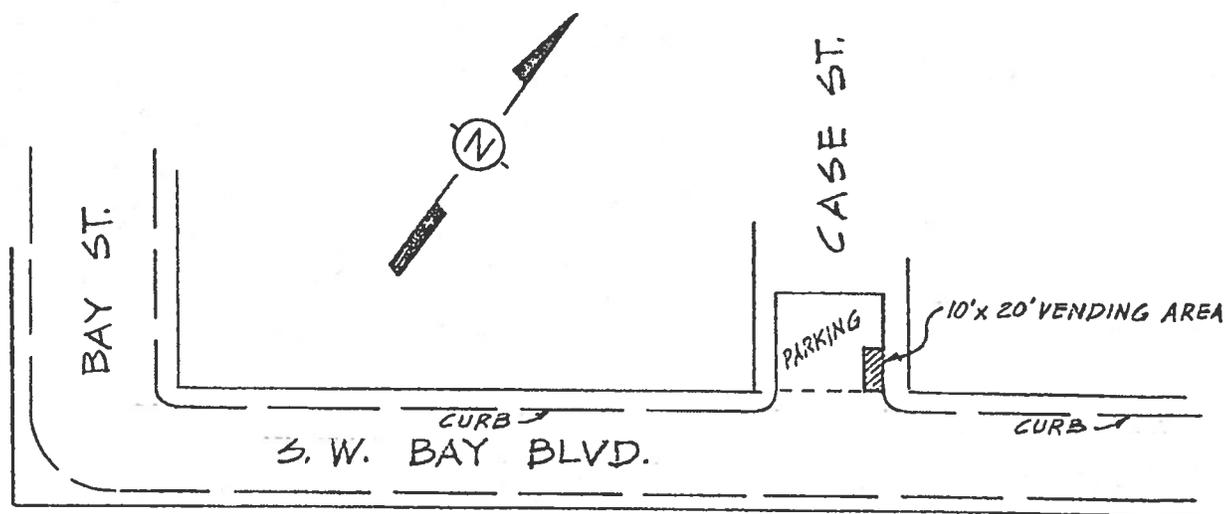


VENDING AREA (B)

SCALE: 1"=50'



VENDING AREA C
SCALE: 1" = 50'



VENDING AREA D
SCALE: 1" = 100'

CITY OF NEWPORT

RESOLUTION NO. 2348

A RESOLUTION DETERMINING LICENSE FEES AND BUSINESS VENDING AREAS IN ACCORDANCE WITH THE PROVISIONS OF CITY OF NEWPORT ORDINANCE NO. 1305.

WHEREAS, City of Newport Ordinance No. 1305 has been duly approved and adopted this 6th day of July, 1982, which Ordinance provides for the establishment of certain designated business vending areas and certain fees,

NOW, THEREFORE,

BE IT RESOLVED:

- 1. The annual licensing fee for a vending license as in said Ordinance No. 1305 described shall be \$35.00.
- 2. The additional fee to be paid monthly for a license to conduct vending activities in a designated business vending area shall be \$20.00 per month.
- 3. Business vending areas and the number of licenses which may be issued for such areas shall be as follows:
 - (a) Nye Beach Turnaround (see description attached hereto and by this reference made a part hereof) 3 licenses.
 - (b) Waterlin East Parking Lot (description attached hereto and by this reference made a part hereof)/no present limitation as to the number of licenses authorized.
 - (c) Hatfield Drive Pump Station (description attached hereto and by this reference made a part hereof) 3 licenses.
 - (d) Case Street end (description attached hereto and by this reference made a part hereof) 2 licenses.

ADOPTED this 6th day of July, 1982.

APPROVED:


MAYOR

ATTEST:


City Recorder

CITY OF NEWPORT
ORDINANCE NO. 2001

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) AND NEWPORT MUNICIPAL CODE
RELATING TO TEMPORARY VENDING CARTS NOT ASSOCIATED WITH
SPECIAL EVENTS AND TEMPORARY PORTABLE SIGNS
WITHIN PUBLIC RIGHTS-OF-WAY**

Findings:

1. Section 2-2-29 of the City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria for allowing short-term uses that are temporary in nature, where no permanent improvements are made to a site. Such uses are subject to a temporary structures permit.
2. Bonnie Serkin, on behalf of Landwaves Inc., submitted an application proposing amendments to Section 2-2-29 to allow temporary vending carts in certain portions of the city. The request also includes amendments to Chapter 10.10 (Signs), Chapter 11.05 (Buildings), and Chapter 12.15 (System Development Charges) of the Newport Municipal Code. Changes to the sign code include an allowance for portable signs within rights-of-way in portions of South Beach for more than five consecutive days and more than 10 total calendar days and clarify that one portable sign is allowed per business rather than just one sign per property. Amendments to the building and system development charges section of the code add exemptions for vending carts, considering that they are not permanently affixed to a foundation and are temporary in nature.
3. In conjunction with this request, standards for the placement of temporary structures in conjunction with special events are being deleted from Section 2-2-29 of the Zoning Ordinance. This is being done because the standards have been incorporated into Chapter 9.80 of the Newport Municipal Code.
4. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed the proposed changes to the Newport Zoning Ordinance and Newport Municipal Code (Newport File No. 13-Z-09) at a work session on January 11, 2010. Following a public hearing on February 22, 2010, the Planning Commission voted unanimously to recommend the adoption of the proposed amendments.
5. The City Council held a public hearing on March 15, 2010 regarding the question of the proposed revisions (Newport File No. 13-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
6. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

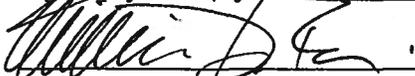
Section 1. Section 2-2-29 of Ordinance No. 1308 (as amended), Temporary Structures Permits, is repealed in its entirety and replaced with a new Section as shown in Exhibit "A".

Section 2. Section 10.10.040, Signs in Public Rights-of-Way, Section 10.10.070, Partially Exempt Signs, Chapter 11.05, Building Codes, and Section 12.15.060, Exemptions, of the Newport Municipal Code are amended as shown in Exhibit "B".

Section 3. This ordinance shall take effect 30 days after passage.

Date adopted on initial vote and read by title only: March 15, 2010

Signed by the Mayor on March 16, 2010.



William D. Bain, Mayor

ATTEST:



~~Margaret M. Hawker, City Recorder~~
Cheryl Atkinson, Exec. Assistant
Office of City Manager/City Attorney

Exhibit A to Ordinance No. 2001, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to provide criteria for temporary vending carts not associated with special events, and to delete standards for temporary structures in conjunction with special events.

2-1-1.101. Definitions. As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

* * *

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 2-2-29.027.

* * *

Section 2-2-29. TEMPORARY STRUCTURES PERMITS *

2-2-29.005. 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 NMC 9.80.010, temporary living quarters, construction trailers, leasing offices, vending carts, kiosks, storage buildings, and similar structures.

2-2-29.010. Special Events Structures. Placement of special events structures is regulated under Chapter 9.80 of the Newport Municipal Code.

2-2-29.015. 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 2-4-3 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.

2-2-29.025. 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 one (1) year.
- B. Temporary structures are limited to commercially and industrially 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.
- I. 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.

2-2-29.030. 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.

2-2-29.035. 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.

2-2-29.040. Approval Authority. Unless otherwise provided, placement of temporary structures is subject to review and approval by the Community Development Director using a Type I decision making process.

2-2-29.045. Application Submittal Requirements. In addition to a land use application form with the information required in Section 2-6-1.020, applications for temporary structures shall include the following:

- A. A site plan, drawn to scale, showing:
 - (1) The proposed location of the temporary structure, 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.
 - (6) The location and size of trash receptacles.
 - (7) Utilities.

- (8) Existing signs and signs associated with the temporary structure.
 - (9) Temporary structure building elevations or photos.
 - (10) The location of drive-up windows (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.

2-2-29.050. 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.

2-2-29.055. 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.

Exhibit B to Ordinance No. 2001, Amending the Newport Municipal Code to clarify criteria for portable signs within the public right-of-way and establishing exemptions to building code and system development charges for temporary vending carts not associated with special events.

CHAPTER 10.10 SIGNS

10.10.040 Signs in Public Rights-of-Way

* * *

B. Permits are required for temporary or portable signs within rights of way and may be issued only if authorized in this section.

* * *

2. Permits for portable signs within rights of way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:

* * *

f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40th Street and north of the intersection of Highway 101 and 50th Street.

10.10.070 Partially Exempt Signs

* * *

E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

CHAPTER 11.05 BUILDING CODES

* * *

11.05.180 Exemptions

Temporary Vending Carts that are permitted in accordance with Newport Zoning Code and Ordinance section 2-2-29.027 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.

CHAPTER 12.15 SYSTEM DEVELOPMENT CHARGES

*** * ***

12.15.060 Exemptions

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

*** * ***

4. Temporary Vending Carts that are permitted in accordance with Newport Zoning Code and Ordinance section 2-2-29.027

Examples of Vending Push Carts

(satisfy existing NMC Chapter 4.10 height and length limitations)



ITEM # 100, HOT DOG PUSH CART

Available Features:

Stainless steel construction, Full size steam table pan (includes 2-1/3 pans & 2-1/6 pans)

Large capacity ice bin (holds up to 6 cases of soda with ice and other cold products)

Large display storage cabinet, Two large serving shelves, Propane hookup, Bicycle wheels & front swivel casters, Extra storage in cart body

Dimension: 48"L x 34"W x 52"H



ITEM # 610, ELECTRIC HOT FOOD CART

Available Features:

2 full size electric steam table pans. 1 dome cover.

Large ice bin for beverages, Storage area in base, Canopy, Drop shelf, Sneeze guard.

Dimension 57"L x 28"W x 96"H



ITEM # 104, SALAD, SANDWICH, AND COLD BEVERAGE CART

Available Features :

Keeps a large volume of products, cold up to 12 hours when unplugged

Display area for salads and beverages, Special graphics and umbrella available

Dimension : 53"L x 33"W X 51"H

Examples of Hitched Open Vending Carts

(do not meet current NMC Chapter 4.10 length limitations)

ITEM # HT100, HOT DOG TRAILER

Available Features:

Same as Model 100

Heavy duty chassis, full independent suspension, removable hitch, 2 front swivel wheels

Trailer lighting package

Dimension: 76"L x 38"W x 58"H



ITEM # HT100S, HOT DOG TRAILER WITH SINKS

Available Features :

Stainless steel construction with added steel frame trailer.

Full-size steam table pan. 2 - 1/3 pans. 2 - 1/6 pans.

Large capacity ice bin (holds up to 6 cases of soda with ice and other cold products).

Dimension: 94"L x 38"W x 58"H



Examples of Enclosed Vending Carts

(do not meet current NMC Chapter 4.10 height and length limitations)

ITEM # 527T, ENCLOSED HOT DOG TRAILER

Available Features:

Fold up sign awning, Stainless steel counters, 2 full size steam table pans. Triple compartment sinks with hot and cold water, Large insulated soda bin. Spacious work area. Welded tubular steel frame. Aluminum body.

Dimension: 79"L x 64"W x 82"H



Enclosed Concession Trailer

Features:

Fold up awning, full size commercial steam table pans and roll top, stainless grill or griddle, 4 sinks, 170 quart cooler storage, stainless counters.

Dimension: 127"L x 72.5"W x 100"H
(length with tongue: 164 inches)



Downtown Oregon City getting first food-cart pod?

Raymond Rendleman August 06 2020

Competing axe-throwing businesses set sights on mixed-use areas with newly relaxed land-use regulations

Oregon City will potentially get its first food-cart pod and two competing axe-throwing establishments downtown, according to recently filed business permits and land-use applications.

Oregon City's longstanding rules banning food carts were overturned last year to allow mobile vendors in certain parts of downtown, as well as in mixed-use and industrial areas. Previously, food carts were only allowed at the future Willamette Falls development, or required temporary event permits.

Spicer Brothers Produce's [closure in 2018](#) opened up a large piece of property at a key intersection in Oregon City that could define the tone of development in the area for decades to come.

According to the Clackamas County assessor's office, the 0.67-acre property at 508 14th St. sold for \$880,000 in 2018. Keith and Nancy Spicer sold the prime real estate to Larsen's Creamery owner Andy Gianopoulos' Clackamas Cream II LLC. The Spicers had bought the property for \$250,000 in 1999 and subsequently gave the business to their two sons to run.

According to an [application to the city](#), Gianopoulos is working with former Oregon City Mayor Dan Fowler, who recently had a deal to purchase the police station fall through, and Fowler's daughter, Charissa Bailey, on the

Corner 14's website lists Celtic Axe Throwers as a partner in the venture, with plans to have two axe-throwing lanes inside the taphouse building and two additional lanes outside in a heated patio area. Axe throwing has seen a surge in popularity, as organizers emphasize the safety of the sport practiced in fenced lanes constantly monitored by staff members.

Such safety measures for the sport are also touted by Blue Ox Axe Throwing, which has set its sights on the former Coyote Hobby building on 12th Street, about three blocks from Corner 14. According to its website, Blue Ox's first facility opened in Connecticut in 2018 and is expanding to five locations nationwide.

In Portland, many former food-cart pods have given way to large buildings, and Oregon City's Corner 14 could eventually head in the same direction. As part of the mixed-use zoning district downtown, the property is eligible for some of the densest development in Oregon City. A height limit of 58 feet remains in place.

Building three floors of residential housing on top of retail would make the property eligible for a 60 percent tax break on additional value created by the development. The breaks would go toward the property's city taxes for 10 years, thanks to the Vertical Housing Program administered by the Oregon Housing and Community Services.

Downtown Oregon City's new Opportunity Zone allows potential developers in to invest capital gains from other types of investments and defer taxes or possibly avoid having to pay capital gains taxes all together, depending on the length of the investment and its relative size. The amount of tax advantage is case-dependent and spelled out in the tax overhaul passed by Congress in 2018.

A free-standing building more than 60,000 square feet could be built as long as the building contains multiple stores, but big-box stores are discouraged by downtown Oregon City zoning.



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ADVERTISEMENT

Oregon city leaders look to regulate food trucks after years of no formal rules for them



(WTVG)
By Michael Bratton
Published: Jul. 8, 2019 at 7:46 PM PDT
f m t p in

Mobile Food Units (aka "Food Carts")



Within the city limits of Oregon City, mobile food units or "food carts" are regulated by OCMC [17.54.115](#). The provisions do not apply to indoor mobile food units or mobile food units allowed pursuant to a special event permit issued by the City.

- Review is required by the Planning Department and Public Works. Contact the Planning Department for further information at 503.722.3789. More details is provided below.
- Temporary Structures located on private commercial property such as pop-up canopies and tents require Planning Division approval through the [Type I Minor Site Plan review](#) process. Contact the Planning Department for further information at 503.722.3789.
- Mobile food units are only allowed in the public right-of-way with special event permits. In those cases a permit is required from Public Works. Contact the Public Works Department for further information at 503.496.1560.
- [System Development Charges](#) may apply. Contact the Public Works Department for further information at 503.496.1560.
- An [Oregon City business license](#) is required. Contact the Business Licensing Coordinator further information at 503.496.1519.
- [County health department permits](#) are required.
- [Building permits may be required](#). Contact the Building Division for further information at 503.722.3789.

Permits for Transitory Mobile Food Units (Onsite 5 Hours or Less)

Transitory Mobile Food Units are units that remain on a property for five hours or less in a twenty-four hour period.

Transitory Mobile Food Units require a Type I Minor Site Plan and Design Review application which includes the [Type I Main Application Form](#) and also [Addendum 13](#). This includes a formal review by the Planning and Development Services Department. Building permits and public works permits may also be required.

Permits for Non-Transitory Mobile Food Units (In a Pod or Onsite Longer Than 5 Hours)

Non-Transitory Mobile Food Units are units that will be located on a property for longer than five hours in a twenty-four hour period. These have a two step approval process.

1. The property is reviewed with a [Type II Minor Site Plan and Design Review application](#). This will make sure the site complies with the standards in [OCMC 17.54.115](#). This includes a formal review by the Planning and Development Services Department with an opportunity for public input.
2. After the site receives approval of a Type II Minor Site Plan and Design Review as identified above, the carts themselves will be reviewed upon submittal of a business license application. With each business license application a [worksheet for Carts in Pods and Permanent Carts](#) will also be submitted. If a cart anticipates spending more than 5 hours a day at multiple locations, a worksheet is required for each location. Please note that the review will include an analysis to determine if additional system development charges are needed.

Where are Food Carts/Units Allowed?

The table below shows which zones allow mobile food units and what type of permit is required. To see the zone districts on an interactive map, go to [OCWebMaps](#), and turn on the "Zoning" layer under "Land Use and Planning", or you can use the "[what zone am I in?](#)" App if you have a specific address you want to check.

Mobile Food Unit Zones / Permit Type Required

MUE	GI	CI	MUD	I	All
-----	----	----	-----	---	-----

	Mixed-Use Employment	General Industrial	Campus Industrial	Mixed-Use Downtown (Outside Design District)	Institutional	other zones
Food Unit Type						
Transitory	Type I	Type I	Type I	Type I	Type I	Special event permit only*
Non-Transitory	Not permitted	Not permitted	Not permitted	Type II	Type II	Not permitted

* Special Event Permits

Public Works Special Event Permit

This permit is needed for locations within the Right-of-Way. For information about how to obtain a Public Works special event permit [click here](#).

Parks and Recreation Special Event Permit

This permit is needed for locations within City Parks or on City-owned Property. For information about how to obtain a parks and recreation special event permit [click here](#).

17.54.115 - Mobile food units.

- A. Applicability. The following provisions apply to mobile food units not located within a building. The provisions do not apply to indoor mobile food units or mobile food units allowed pursuant to a special event permit issued by the city.
- B. General Requirements.
1. Mobile food units shall primarily sell food items.
 2. Mobile food units shall not sell cannabis, in any form.
 3. Mobile food units shall have a valid Oregon City business license.
 4. Mobile food units shall not be located within the right-of-way, except as approved by the city engineer.
 5. Mobile food units shall maintain continuous compliance with applicable federal, state, and city standards.
 6. Discharge or leakage draining into the stormwater system is prohibited. Wastewater shall not be dumped onto the ground, onto the streets, or into a storm a drain. All liquid waste from the waste tank or from cleaning activities such as cleaning the mobile food cart shall be captured and properly disposed of in the sanitary sewer.
 7. All permanent utility lines shall be placed underground. Temporary utilities, lines and tanks shall be placed underground or otherwise screened, covered, or hidden from view from the right-of-way as to minimize visual impacts and prevent tripping hazards or other unsafe conditions.
 8. Power connections may not be connected by overhead wires to the individual mobile food units.
 9. Comply with the stormwater and grading design standards for additional impervious surfaces.
 10. Mobile food units, equipment, customer service areas, or any associated item may not be located within the right-of-way.
 11. Sites with more than ten mobile food units at any time shall have a designated loading area.
 12. Parking lots, refuse and recycling areas, outdoor lighting, fencing, and structures (other than the mobile food units) are subject to compliance with site plan and design review standards in OCMC 17.62. Mobile food units are exempt from OCMC 17.52 unless otherwise identified below.
 13. Mobile food unit owners are responsible for maintaining the mobile unit and the adjacent site area in a neat and clean condition. This includes but is not limited to regular maintenance and cleaning of the exterior of the mobile food unit to avoid rust and peeling paint, repair of broken or sagging awnings, canopies, platforms, counters, benches, tables, umbrellas, and other structures used by customers adjacent to the mobile food unit.

C. Design Standards.

1. Transitory Mobile Food Units. Mobile food units that remain on a property for five hours or less in a twenty-four-hour period shall comply with the following:
 - a. Standards related to the site.
 - i. Be limited to three food units on a property at any one time;
 - ii. Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements; and
 - iii. Not result in the reduction of landscaping less than the minimum site.
 - b. Standards related to the mobile food unit.
 - i. Comply with nuisances regulations in OCMC 8.08.040;
 - ii. Comply with OCMC 17.62.050.I for all temporary structures associated with the mobile food cart units (except for the unit itself);
 - iii. Connect to individual wastewater holding tanks at all times; and
 - iv. Connect to a potable water tank at all times.
2. Non-Transitory Mobile Food Units. All other mobile food units that remain on a property for more than five hours at a time shall comply with the following:
 - a. Standards related to the site.
 - i. Maintain the minimum number of parking stalls and minimum drive aisle widths and parking lot requirements;
 - ii. Not result in the reduction of landscaping less than the minimum site;
 - b. Standards related to the unit.
 - i. Fully screen from view any mechanical or power generating equipment that is separated from and external to the mobile food unit with vegetation or screening at a height equal to or greater than the height of the generating unit;
 - ii. Connect to a permanent water source, unless exempted by the city engineer if utilities are not available;
 - iii. Connect to public sewer. This may be achieved through a communal system;
 - iv. Connect to a permanent power source; and
 - v. Comply with the minimum setbacks and maximum height of the zoning designation.

D. Process.

1. A Type I minor site plan and design review shall be submitted for each property in compliance with the transitory standards in OCMC 17.54.115.C.1 with a wastewater/water operations and maintenance plan.
2. A Type II minor site plan and design review shall be submitted for each property in compliance with the non-transitory standards in OCMC 17.54.115.C with a wastewater/water

operations and maintenance plan.

3. Mobile food cart units shall each submit a business license and mobile food cart unit form.

(Ord. No. 18-1009, § 1(Exh. A), 7-3-2019; Ord. No. 19-1008, § 1(Exh. A), 12-18-2019)

LINCOLN CITY

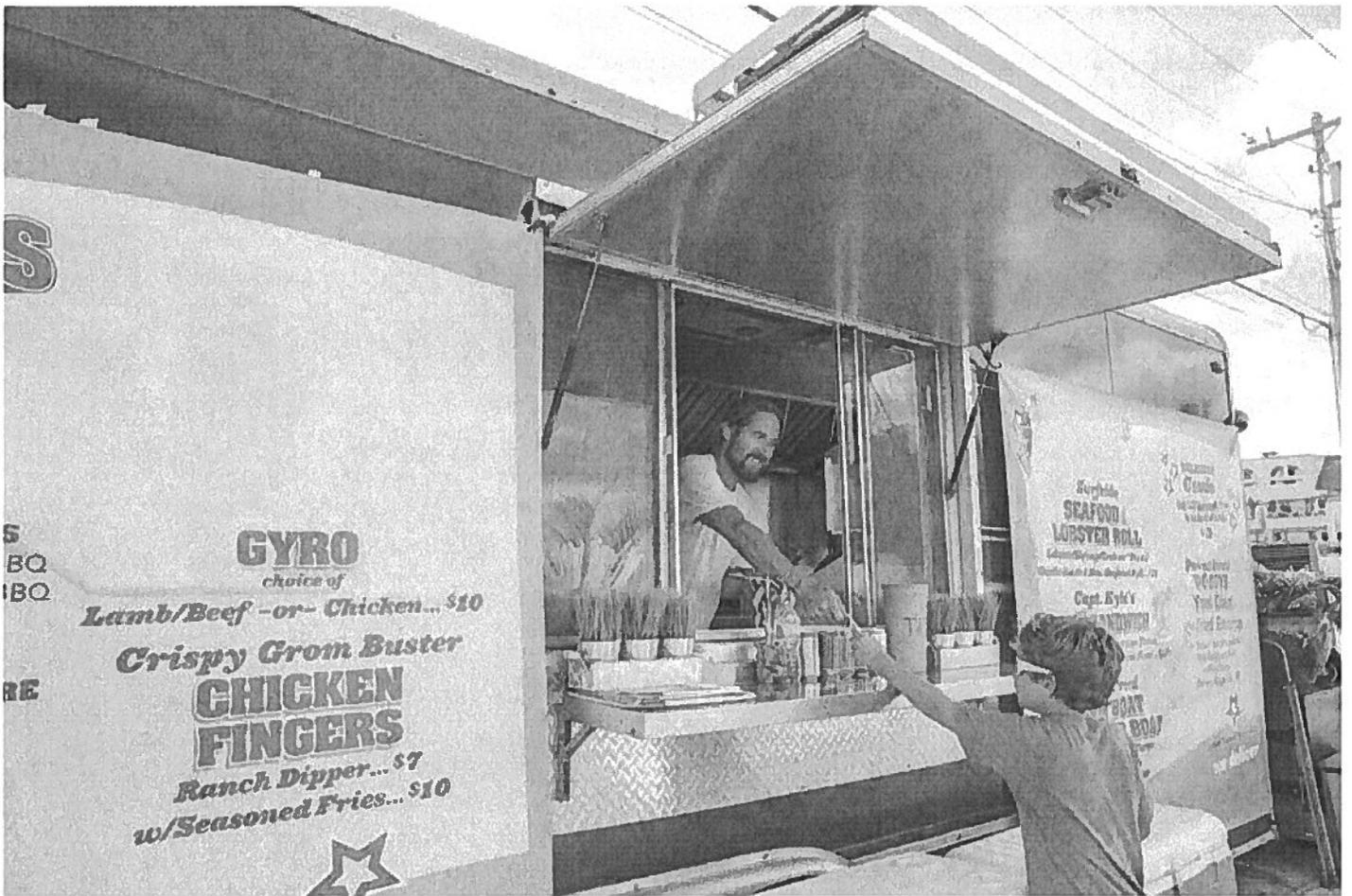
https://www.thenewsguard.com/news_paid/city-council-approves-food-truck-pod-ordinance-for-lincoln-city/article_9af63326-4d09-11ea-a4eb-6bc849fedae4.html

FEATURED

City Council approves food truck, pod ordinance for Lincoln City

Max Kirkendall newsguardeditor@countrymedia.net

Feb 11, 2020



Metro Creative

In November, the Lincoln City City Council worked through a draft of an ordinance that permitted food trucks or 'mobile food units and mobile food pods,' to be able to operate within the city limits. After several discussions between both the council and the Lincoln City Planning Commission, the City has reached an agreement to approve the ordinance.

The City Council held a public hearing meeting on Feb. 10 to discuss the final details of the ordinance. The Planning Commission submitted their final recommendation for the ordinance on Jan. 7 and after looking over the packet, several councilors had concerns about some of the nuts and bolts of the provisions.

One of the concerns was regarding the Commission's recommendation to prohibit the operation of class one and class two mobile food units, which sell pre-packaged items, such as the operation of non-profits like the Taft Boosters.

"They're not selling cooked food, so we're eliminating their ability to fundraise essentially... I'm not in support of that," Councilor Riley Hoagland said.

However, City Attorney Richard Appicello noted that with a street vendor license, those non-profits would still be able to operate, albeit at a restricted size. The Council also disagreed with the terminology written by the Planning Commission that stated packaging for any food or utensils must be biodegradable, prohibiting any plastic or prepackaged items.

"That would limit greatly what people will be able to sell," Hoagland said.

The Council then heard comments from the public, including food truck advocate Dan Clanton, the owner of The Grill 1646 restaurant. Clanton also operates a food truck in Bend and is very familiar with the rules and regulations regarding mobile food units in Oregon.

Clanton also raised concerns about the Planning Commission recommendations, such as the class one and class two truck prohibitions. The second concern was the use of generators by mobile food unit. Clanton was in support of prohibiting external generators due to the noise they produce.

His food units are able to operate at full capacity via a power cord and sees no need for an external generator. Finally, Clanton touched on the kitchen requirements for these mobile food units, citing the fact that as the ordinance was stated, most food units would have to cook their food in a commercial kitchen, then reheat it on their food truck.

"We don't have the infrastructure for that in Lincoln City," Clanton said. "There is a large number of families here that are operating in other markets, providing jobs in other cities and making money for other cities because this law is in place here.

"We all want to come home. We want to bring our carts, bring our families and provide more jobs."

Mayor Dick Anderson brought up the concern of balancing brick and mortar restaurants paying property taxes while the mobile food units are not. Clanton countered by saying most restaurants are leasing property in Lincoln City, so they wouldn't be paying property taxes, only occupancy tax, which is what a mobile food unit would pay as well.

Leslie Portune, owner of Snug Harbor Bar and Grill also gave her concerns with sections of the ordinance, particularly a sentence that was recently removed that said mobile food units must be one wheels and have the ability to move. Portune feared that the food trucks may park and station themselves at a location for an extended period of time, even while being inoperable.

After deliberation, the City staff said they had no problem putting that section back into the ordinance and stated that it should not have been removed in the first place.

Alison Robertson, Director of the Lincoln City Urban Renewal Agency, also spoke in support of having mobile food units in town.

"The topic of food carts is very exciting and has potential to provide increased economic activity through a different food choice experience than is offered now," Robertson said. "I believe it's something that some of our visitors expect but have been lacking when they arrive in Lincoln City."

Robertson also acknowledged the concerns of other businesses in Lincoln City, but felt that giving the option to patrons was important. She also noted that it will allow opportunities for brick and mortar businesses to expand and benefit local businesses.

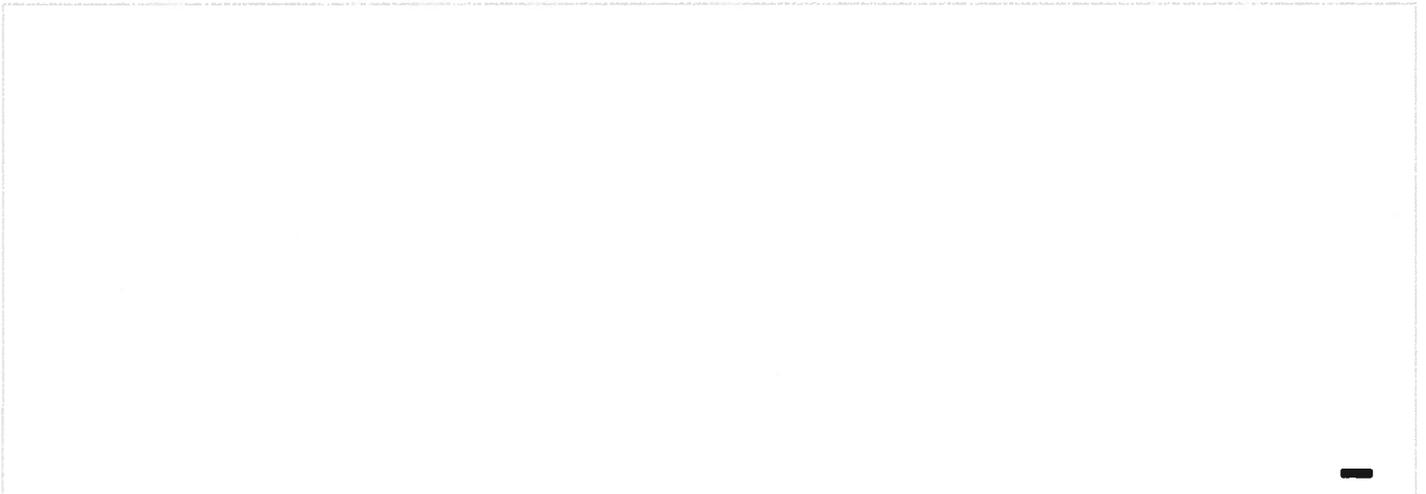
"Food carts are one more economic strategy and I support it in whatever form it shows up," Robertson said.

The Council continued discussions about prohibiting plastics and prepackaged items. The Councilors made the determination that the focus should be on packaging provided to the general public, such as to go containers made of plastic or Styrofoam.

The Council decided to strike the class one and class two prohibition, prohibit to go plastic containers and Styrofoam packaging to be given to the public and prohibit external generators.

After a vote, the Council voted unanimously to approve the ordinance with the changes made.

RECOMMENDED FOR YOU



Instructions for Mobile Food Unit License Application

1. Complete the attached application in its entirety making sure every blank is completed. If not applicable, write NA on the blank.
2. Every property owner listed on the deed must sign and date the application.
3. If a contract purchase, in addition to the property owners listed on the deed, every individual listed as a contract purchaser on the purchase contract must sign and date the application AND a copy of the purchase contract must be included with the submittal.
4. All items listed on the application as requirements to be shown on the site plan, must be shown on the site plan.
5. For an application to be accepted for processing, all of the following must be contained in the application package:
 - The completed application with the applicant signature and all property owner signatures
 - Completed application for a Lincoln City Occupation Tax Permit (OTP)
 - A written agreement with the property owner granting permission to locate a mobile food unit on the site in the case of private property OR an approved PARKS CONCESSIONS agreement
 - Trash and food waste containment, storage, and disposal plan
 - Narrative of proposed methods of containment, storage, and disposal for grease, sanitary sewer, and wastewater
 - One paper copy of the site plan showing ALL required elements listed on the application
 - Proof of inspection by the Fire Marshal
 - Copy of all State, County, City food service licenses and permits for the license year [All applicants must meet state, county, and other applicable city standards relating to, but not limited to: food preparation, Serve Safe, licensing, health and safety standards.]
 - Proof of insurance as required in Lincoln City Municipal Code (LCMC) 5.30.030
 - Applicable fees
6. Applications will NOT be accepted until all items in #1 through 5 above are present.
7. Once accepted and approved by the Lincoln City Planning & Community Development Department, then the Lincoln City Finance Department will review, process the fees, and issue the required OTP and mobile food unit license.



Mobile Food Unit License Application

APPLICANT:

NAME: _____
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal.

NAME: _____
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal.

NAME: _____
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

SITE INFORMATION:

ZONING DISTRICT: PC RC
 GC NP – Business District
 P NP – Beachside Mixed Use
 PI TVC
 OP

SITE ADDRESS: _____
 SITE TAX MAP: _____

Is the property owned by the City of Lincoln City?

_____ Yes, and the Parks Concession Agreement is attached.

_____ No, and the written agreement from the property owner for mobile food unit use of the site for the license year is attached. (LCMC 17.80.170.B.1 and LCMC 5.30.025.A.2)



ATTACHMENTS:

- _____ Written agreement with the property owner, wherein the proper owner grants permission to locate a mobile food unit on the site (required unless applicant and property owner are the same) (LCMC 17.80.170.B.1 and LCMC 5.30.025.A.2)
- _____ Valid license from Environmental Health Department (LCMC 17.80.170.B.5 and LCMC 5.30.025.A.8 and 5.30.040.B)
- _____ Documentation from the Fire Marshal that the unit has passed inspection (LCMC 17.80.170.B.9 and LCMC 5.30.040.A)
- _____ Plan for trash and food waste containment, storage, and disposal (LCMC 5.30.040.A.5)
- _____ If Class III or IV, plan for methods of containment, storage, and disposal for grease, sanitary sewer, and wastewater (LCMC 5.30.040.A.6)
- _____ Signed agreement or plan for vendor and patron restroom and hand-washing facilities (LCMC 5.30.040.A.7)
- _____ Food handling permit from Environmental Health Department (LCMC 17.80.170.B.11 and LCMC 5.30.025.A.8)
- _____ Serve Safe permit from Environmental Health Department (LCMC 17.80.170.B.11 and LCMC 5.30.025.A.8)
- _____ Proof of insurance (LCMC 5.30.025.A.9 and 5.30.030)
- City-owned property – LCMC 5.30.030.A.
 - Privately-owned property – LCMC 5.30.030.B

ACKNOWLEDGEMENTS:

My/our initials on the blank next to each item below indicate my/our acknowledgement that the submitted site plan clearly identifies the following items:

- _____ North arrow, scale, and date of drawing (LCMC 17.80.170.D.3.a)
- _____ Property boundaries and dimensions (LCMC 17.80.170.D.3.b)
- _____ Location of existing structures (LCMC 17.80.170.D.3.c)
- _____ Proposed location of mobile food unit with distances from all property lines and all structures (LCMC 17.80.170.D.3.d)
- _____ Distances of at least 10 feet between any property line and the mobile food unit (LCMC 17.80.170.B.6.a)
- _____ How placement of the mobile food unit maintains 3 feet of clearance around all exit paths from the unit (LCMC 17.80.170.B.6.b)

- _____ Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions (LCMC 17.80.170.D.3.e)
- _____ At least one access path to and from the unit and the public access way complying with ADA access requirements (LCMC 17.80.170.B.4)
- _____ Location of shared dining area, if any, and the location of the ADA-accessible path from the mobile food unit to the ADA-accessible dining area (LCMC 17.80.170.C.1)

NOTE: ALL OF THE ABOVE ITEMS MUST BE CLEARLY IDENTIFIED ON THE SUBMITTED SITE PLAN BEFORE THE APPLICATION CAN BE ACCEPTED FOR PROCESSING

I/we acknowledge the following:

- _____ A mobile food unit is a wheeled mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and serving to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit.
- _____ The mobile food unit is fully contained, and equipment is integral to the unit. (LCMC 17.80.170.B.2)
- _____ External generators are prohibited. (LCMC 17.80.170.B.2)
- _____ The mobile food unit does not block any designated travel or fire lanes, pedestrian access, or clear-vision areas. (LCMC 17.80.170.B.7)
- _____ The mobile food unit does not occupy an parking space or required feature that is required for a use on the same site. (LCMC 17.80.170.B.7)
- _____ The mobile food unit will not provide or serve customers as a drive-through facility (LCMC 17.80.170.B.8)
- _____ Signs for the mobile food unit are wholly applied to the surface of the mobile food unit. (LCMC 17.80.170.B.10)
- _____ The mobile food unit license is non-transferable. (LCMC 5.30.080.A)
- _____ The mobile food unit may only operate in the approved location (LCMC 5.30.080.B)
- _____ The mobile food unit shall not operate or be located within public right-of-way (LCMC 5.30.070.B.1)

_____ I/we will pick up any food waste, paper, cardboard, wood, or plastic containers, wrappers, trash, debris, and/or any litter in any form which is deposited by any person on the sidewalk or street or other property within 35 feet of my/our mobile food unit at any time the operation is open for business, and shall be responsible for the proper disposal of same. (LCMC 5.30.080.G)

_____ At the time of annual license renewal, the mobile food unit license shall not be renewed unless I/we submit an annual report and documentation for the preceding year(s) including (1) gross sales; (2) concession fees paid; (3) other fees and charges paid for use of public property or right-of-way; (4) Priority/Priority Foundation Fail records for the previous year. (LCMC 5.30.080.L)

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information is true, complete, and accurate. I (We) have read and fully understand, and agree to meet, the criteria for mobile food units as outlined in Lincoln City Municipal Code (LCMC) Chapter 5.30 and LCMC Section 17.80.170 and reflected in this application.

I (We) acknowledge that providing false information in the application shall be a violation and grounds to deny the application and void the approval.

SIGNATURES:

Applicant (signature required)

Date

Property Owner/Contract Purchaser (signature required)

Date

Property Owner/Contract Purchaser (signature required)

Date

- *All property owners listed on the deed must sign the application.*
- *All contract purchasers listed on the purchase contract must sign the application.*
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Office Use Only City of Lincoln City	
_____ Approved by Planning & Community Development	
_____ Date Received	_____ Date Approved
_____ Approved by ADA Coordinator	_____ Date
_____ Approved by Finance	_____ Date

Instructions for Mobile Food Unit License Application

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 - Copy of all State, County, City food service licenses and permits for the license year [All applicants must meet state, county, and other applicable city standards relating to, but not limited to: food preparation, Serve Safe, licensing, health and safety standards.]
 - Proof of insurance as required in Lincoln City Municipal Code (LCMC) 5.30.030
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Mobile Food Unit License Application

APPLICANT:

NAME: _____

ADDRESS: _____

PHONE: _____

E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal.

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SITE INFORMATION:

ZONING DISTRICT: PC RC

GC NP – Business District

P NP – Beachside Mixed Use

PI TVC

OP

SITE ADDRESS: _____

SITE TAX MAP: _____

Is the property owned by the City of Lincoln City?

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_____ No, and the written agreement from the property owner for mobile food unit use of the site for the license year is attached. (LCMC 17.80.170.B.1 and LCMC 5.30.025.A.2)



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NOTE: ALL OF THE ABOVE ITEMS MUST BE CLEARLY IDENTIFIED ON THE SUBMITTED SITE PLAN BEFORE THE APPLICATION CAN BE ACCEPTED FOR PROCESSING

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I (We) acknowledge that providing false information in the application shall be a violation and grounds to deny the application and void the approval.

SIGNATURES:

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Date

Property Owner/Contract Purchaser (signature required) _____
Date

Property Owner/Contract Purchaser (signature required) _____
Date

- *All property owners listed on the deed must sign the application.*
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Office Use Only City of Lincoln City	
_____ Approved by Planning & Community Development	
_____ Date Received	_____ Date Approved
_____ Approved by ADA Coordinator	_____ Date
_____ Approved by Finance	_____ Date

ORDINANCE NO. 2020-05

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), TO ADD MOBILE FOOD UNITS AS PERMITTED USES IN THE FOLLOWING ZONES - AMENDING CHAPTER 17.24 (PROFESSIONAL CAMPUS (PC) ZONE); SECTION 17.24.020 (USES PERMITTED); AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), AMENDING CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT), SECTION 17.34.050 (PERMITTED USES); AMENDING CHAPTER 17.36 (PLANNED INDUSTRIAL (PI) ZONE), SECTION 17.36.020 (USES PERMITTED); AMENDING CHAPTER 17.42 (PARK (P) ZONE), SECTION 17.42.020 (PERMITTED USES); AMENDING CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE), SECTION 17.45.040 (LAND USE ACTIVITIES), AMENDING CHAPTER 17.50 (OCEANLAKE PLAN DISTRICT (OP) ZONE), SECTION 17.50.050 (PERMITTED USES), AND AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES), ADDING A NEW SECTION 17.80.170 (MOBILE FOOD UNITS) ESTABLISHING STANDARDS FOR MOBILE FOOD UNITS AND MOBILE FOOD UNIT PODS

Annotated to show deletions and additions to the code sections being modified. Deletions are bold lined-through and additions are bold underlined.

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on August 27, 2019; no ORS 227.186(4) notice was mailed because the Ordinance adds uses to listed zones; and
D. The Planning Commission, on December 17, 2019, held a public hearing and considered the amendments contained within this ordinance. On December 17, 2019 the Planning Commission voted to transmit the amendments to the City

1 Council with a recommendation that the ordinance be adopted, subject to certain
2 changes; and

3 E. The City Council conducted the public hearing on February 10, 2020, closed the
4 hearing, closed the record, and deliberated on the proposed amendments on
5 February 10, 2020 and provided direction to staff to return with an Ordinance for
6 adoption; and

7
8 F. All persons were given an opportunity to provide written and/or oral testimony
9 on the proposed ordinance amendments.

10
11 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**
12

13 **SECTION 1.** Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.020 (*Uses*
14 *Permitted*), is hereby amended to add a new Paragraph J., to read as follows:

15
16 **J. Mobile Food Units and Mobile Food Pods, subject to the provisions of**
17 **LCMC 17.80.170.**
18

19
20 **SECTION 2.** Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.020 (*Uses*
21 *Permitted*) is amended to add a new Paragraph P., to read as follows:

22
23 **P. Mobile Food Units and Mobile Food Pods, subject to the provisions of**
24 **LCMC 17.80.170.**
25

26
27 **SECTION 3.** Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses*
28 *Permitted*) is amended to add a new Paragraph GG., to read as follows:

29
30 **HH. Mobile Food Units and Mobile Food Pods, subject to the provisions of**
31 **LCMC 17.80.170.**
32

33 **SECTION 4.** Chapter 17.34 (*Nelscott Plan (NP) District*), Section 17.34.050, (*Permitted*
34 *Uses*) Table 17.34.050.A. (*Land uses allowed in Nelscott*), is amended by inserting a new
35 row in the table of commercial land use activities, to read as follows:

Table 17.34.050.A – Land Uses Allowed in Nelscott

Uses	Status of Use in District		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
<u>Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	P	N	P

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SECTION 5. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.020 (*Uses Permitted*) is amended to add a new Paragraph K., to read as follows:

K. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.

SECTION 6. Chapter 17.42 (*Parks (P) Zone*), Section 17.42.020 (*Uses Permitted*) is amended to add a new Paragraph M., to read as follows:

M. Mobile Food Units, subject to the provisions of LCMC 17.80.170 and with an approved Parks Concession and exclusive use permit.

SECTION 7. Chapter 17.45 (*Taft Village Core (TVC) Zone*), Section 17.45.040, (*Land use activities*), Paragraph D. (*Eating/ Drinking Establishments*) is amended by inserting a new row in the table of TVC land use activities, after item D.6., to read as follows:

<u>7. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	<u>P</u>
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1 **SECTION 8.** Chapter 17.50 (*Oceanlake Plan (OP) District*), Section 17.50.050, (*Permitted*
2 *Uses*), is amended by inserting a new row in the table of land uses allowed in Oceanlake
3 activities, after the listed commercial categories, for all sub-districts, to read as follows:
4

<u>Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	<u>P</u>	<u>P</u>	<u>P</u>
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7 **SECTION 9.** Chapter 17.80 (*Provisions Applying to Special Uses*) is amended to add a
8 new Section 17.80.170 (*Mobile Food Units and Mobile Food Unit Pods*), to read as follows:
9

10 **17.80.170 Mobile Food Units and Mobile Food Unit Pods.**
11

12 **A. Definitions.**

13
14 **“Mobile Food Unit” is a mobile unit that meets state, county, and**
15 **Department of Motor Vehicles requirements for licensing, registration,**
16 **and operation as a unit utilized to provide commercial food preparation**
17 **and serving to the general public. Food may be prepared or processed on**
18 **the unit, and said prepared or processed food is sold and dispensed to the**
19 **ultimate consumer from the unit. Mobile Food Units are limited to Class III**
20 **or IV as identified under OAR 333-162-0020. Class I and II units as**
21 **identified under OAR 333-162-0020 are prohibited from functioning as a**
22 **mobile food unit in Lincoln City.**

23
24 **“Mobile Food Pod” is more than one singular mobile food unit located on**
25 **the same lot or parcel.**

26
27 **B. Standards. Mobile Food Units are subject to the following standards:**
28

- 29 **1. Except for approved Parks Concessions pursuant to LCMC 12.16.045,**
30 **mobile food units must be located on private property. A written**
31 **agreement with the property owner, wherein the property owner grants**
32 **permission to locate a mobile food unit on the site, shall be submitted**
33 **with the land use application.**
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- 2. **Mobile food units must be fully contained, and equipment must be integral to the unit.**

- 3. **Mobile food units are exempt from the LCMC 5.04.030 requirement to operate from an enclosed building.**

- 4. **The proposed location of mobile food units shall not interfere with pedestrian or vehicular traffic, use of required parking or other required features on the site. At least one access path to and from the unit and the public access way shall comply with ADA access requirements.**

- 5. **Mobile food units must meet state requirements for restroom and hand-washing facilities. Evidence of how the mobile food unit is meeting restroom and hand-washing facility requirements, in the form of the issued and valid license from the Environmental Health Department, shall be included with the land use application.**

- 6. **Special Setbacks.**
 - a. **Mobile Food Units must maintain 10 feet of clearance from any property line.**
 - b. **Mobile Food units must maintain 3 feet of clearance around all exit paths from the occupiable unit.**

- 7. **Parking and vehicle circulation. A mobile food unit must not block any designated travel or fire lane(s), pedestrian access, clear vision clearance areas as required in LCMC 17.52.060, and shall not occupy any parking space or required feature that is required for a use on the same site.**

- 8. **No drive-through. No mobile food unit may provide or serve customers as a drive-through facility.**

- 9. **Fire. All fire requirements must be met as evidenced by the mobile food unit passing an inspection by the fire marshal.**

- 10. **Signs wholly applied to the surface of the mobile food unit are exempt from a sign permit and not regulated on the total area; all additional signage must conform to the standards outlined in LCMC 17.72 (Sign Ordinance) and LCMC 9.34.**

1
2 **11.State, County, City requirements. Applicants must obtain any required**
3 **state, county, and city licenses and permits including food handling,**
4 **Serve Safe, and annual City Mobile Food Unit License pursuant to LCMC**
5 **Chapter 5.30.**

6 **C. Pod Standards. Mobile Food Unit Pods are subject to all applicable**
7 **standards for Mobile Food units set forth in Paragraph B above, plus the**
8 **following additional or standards:**
9

10 **1. Mobile food pods may provide a shared dining area for customers. If**
11 **so provided, such area must be provided on hard surfaces like asphalt**
12 **or concrete and be ADA-accessible with at least one ADA-accessible**
13 **path from the mobile food units to the ADA-accessible dining area.**

14 **D. Application requirements. Land use approval must be obtained prior to**
15 **applying for the City Mobile Food Unit License. The land use application**
16 **submittal shall include the following:**

17 **1. Completed application form provided by the Department, which**
18 **includes the applicant’s name, mailing address, phone number and**
19 **signature, as well as the names, addresses, phone numbers, and**
20 **signatures of all property owners of the subject site;**

21 **2. Applicable fee for the land use application;**

22 **3. Site plan containing at least the following:**

23 **a. North arrow, scale, and date of drawing;**

24 **b. Property boundaries and dimensions;**

25 **c. Location of existing structures;**

26 **d. Proposed location of mobile food unit with distances from all property**
27 **lines and all structures;**

28 **e. Parking lot layout, drive aisles, access, and pedestrian and vehicular**
29 **circulation pattern with dimensions;**

30 **4. Explanations and/or pictures or other evidence of how all fire and life**
31 **safety, state, and county requirements are being met;**

5. Explanations and/or pictures or other evidence of how the site will remain free of trash, litter, and food waste.

SECTION 10. Findings Adopted. The findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 11. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 12. Savings. Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and effect for purposes of all criminal, civil or administrative code enforcement cases or land use actions or applications filed or commenced during the time said ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 13. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

SECTION 14. Codification. Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 10-14) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 10th day of February, 2020 (First Reading) and on the 10th day of February, 2020 (Second Reading).

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 10th day
2 of February, 2020.

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DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

**EXHIBIT A – ZOA 2020-03 FINDINGS
[ORDINANCE NO. 2020-05]**

The Title of Proposed Ordinance 2020-05 (ZOA 2020-03) is as follows:

ORDINANCE NO. 2020-05

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), TO ADD MOBILE FOOD UNITS AS PERMITTED USES IN THE FOLLOWING ZONES - AMENDING CHAPTER 17.24 (PROFESSIONAL CAMPUS (PC) ZONE); SECTION 17.24.020 (USES PERMITTED); AMENDING CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE), SECTION 17.28.020 (USES PERMITTED), AMENDING CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE), SECTION 17.32.020 (USES PERMITTED), AMENDING CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT), SECTION 17.34.050 (PERMITTED USES); AMENDING CHAPTER 17.36 (PLANNED INDUSTRIAL (PI) ZONE), SECTION 17.36.020 (USES PERMITTED); AMENDING CHAPTER 17.42 (PARK (P) ZONE), SECTION 17.42.020 (PERMITTED USES); AMENDING CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE), SECTION 17.45.040 (LAND USE ACTIVITIES), AMENDING CHAPTER 17.50 (OCEANLAKE PLAN DISTRICT (OP) ZONE), SECTION 17.50.050 (PERMITTED USES), AND AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES), ADDING A NEW SECTION 17.80.170 (MOBILE FOOD UNITS) ESTABLISHING STANDARDS FOR MOBILE FOOD UNITS AND MOBILE FOOD UNIT PODS

This Zoning Ordinance Amendment makes corrections to the City’s Title 17 ordinance adding Mobile Food Units and Mobile Food Unit Pods as permitted uses in specified zones.

The substance of the proposed amendment is as follows:

SECTION 1. Chapter 17.24. (*Professional Campus (PC) Zone*), Section 17.24.020 (*Uses Permitted*), is hereby amended to add the following permitted use as follows: **J. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.**

SECTION 2. Chapter 17.28. (*Recreation Commercial (RC) Zone*), Section 17.28.020 (*Uses Permitted*), is hereby amended to add the following permitted use as follows: **P. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.**

SECTION 3. Chapter 17.32. (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses Permitted*), is hereby amended to add the following permitted use as follows: **HH. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.**

SECTION 4. Chapter 17.34. (*Nelscott Plan (NP) District Zone*), Section 17.34.050 (*Permitted Uses*), is hereby amended by inserting a new row in the table of commercial land use activities adding the following permitted use as follows:

Table 17.34.050.A – Land Uses Allowed in Nelscott

Uses	Status of Use in District		
	Business District	Cottage Residential	Beachside Mixed Use
<u>Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	P	N	P

SECTION 5. Chapter 17.36. (*Planned Industrial (PI) Zone*), Section 17.36.020 (*Uses Permitted*), is hereby amended to add the following permitted uses as follows: **K. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.**

SECTION 6. Chapter 17.42. (*Park (P) Zone*), Section 17.42.020 (*Permitted Uses*), is hereby amended to add the following permitted uses as follows: **M. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.**

SECTION 7. Chapter 17.45. (*Taft Village Core (TVC) Zone*), Section 17.45.040 (*Land Use Activities*), is hereby amended to add the following permitted uses in the table of TVC land use activities, after item D.6. as follows:

<u>7. Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	<u>P</u>
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SECTION 8. Chapter 17.50. (*Oceanlake Plan District (OP) Zone*), Section 17.50.050 (*Permitted Uses*), is hereby amended by inserting a new row in the table of land uses allowed in Oceanlake activities, after the listed commercial categories, for all sub-districts, adding the following permitted uses as follows:

<u>Mobile Food Units and Mobile Food Pods, subject to the provisions of LCMC 17.80.170.</u>	<u>P</u>	<u>P</u>	<u>P</u>
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SECTION 9. Chapter 17.80. (*Provisions Applying To Special Uses*), Section 17.80.170 (*Mobile Food Units*), is hereby amended to add the following permitted uses as follows:

17.80.170 Mobile Food Units and Mobile Food Unit Pods.

A. Definitions.

“Mobile Food Unit” is a mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and serving to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit. Mobile Food Units are limited to Class III or IV as identified under OAR 333-162-0020. Class I and II units as identified under OAR 333-162-0020 are prohibited from functioning as a mobile food unit in Lincoln City.

“Mobile Food Pod” is more than one singular mobile food unit located on the same lot or parcel.

B. Standards. Mobile Food Units are subject to the following standards:

- 1. Except for approved Parks Concessions pursuant to LCMC 12.16.045, mobile food units must be located on private property. A written agreement with the property owner, wherein the**

property owner grants permission to locate a mobile food unit on the site, shall be submitted with the land use application.

2. **Mobile food units must be fully contained, and equipment must be integral to the unit.**
3. **Mobile food units are exempt from the LCMC 5.04.030 requirement to operate from an enclosed building.**
4. **The proposed location of mobile food units shall not interfere with pedestrian or vehicular traffic, use of required parking or other required features on the site. At least one access path to and from the unit and the public access way shall comply with ADA access requirements.**
5. **Mobile food units must meet state requirements for restroom and hand-washing facilities. Evidence of how the mobile food unit is meeting restroom and hand-washing facility requirements, in the form of the issued and valid license from the Environmental Health Department, shall be included with the land use application.**
6. **Special Setbacks.**
 - a. **Mobile Food Units must maintain 10 feet of clearance from any property line.**
 - b. **Mobile Food units must maintain 3 feet of clearance around all exit paths from the occupiable unit.**
7. **Parking and vehicle circulation. A mobile food unit must not block any designated travel or fire lane(s), pedestrian access, clear vision clearance areas as required in LCMC 17.52.060, and shall not occupy any parking space or required feature that is required for a use on the same site.**

- 8. No drive-through. No mobile food unit may provide or serve customers as a drive-through facility.
- 9. Fire. All fire requirements must be met as evidenced by the mobile food unit passing an inspection by the fire marshal.
- 10. Signs wholly applied to the surface of the mobile food unit are exempt from a sign permit and not regulated on the total area; all additional signage must conform to the standards outlined in LCMC 17.72 (Sign Ordinance) and LCMC 9.34.
- 11. State, County, City requirements. Applicants must obtain any required state, county, and city licenses and permits including food handling, Serve Safe, and annual City Mobile Food Unit License pursuant to LCMC Chapter 5.30.

C. Pod Standards. Mobile Food Unit Pods are subject to all applicable standards for Mobile Food units set forth in Paragraph B above, plus the following additional or standards:

- 1. Mobile food pods may provide a shared dining area for customers. If so provided, such area must be provided on hard surfaces like asphalt or concrete and be ADA-accessible with at least one ADA-accessible path from the mobile food units to the ADA-accessible dining area.

D. Application requirements. Land use approval must be obtained prior to applying for the City Mobile Food Unit License. The land use application submittal shall include the following:

- 1. Completed application form provided by the Department, which includes the applicant's name, mailing address, phone number and signature, as well as the names, addresses, phone numbers, and signatures of all property owners of the subject site;
- 2. Applicable fee for the land use application;
- 3. Site plan containing at least the following:

a. North arrow, scale, and date of drawing;

b. Property boundaries and dimensions;

c. Location of existing structures;

d. Proposed location of mobile food unit with distances from all property lines and all structures;

e. Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions;

4. Explanations and/or pictures or other evidence of how all fire and life safety, state, and county requirements are being met.

5. Explanations and/or pictures or other evidence of how the site will remain free of trash, litter, and food waste.

The Planning Commission held a public hearing on December 17, 2019, closed the public hearing, and recommended on a 6-0 vote that the City Council approve the draft ordinance with the additional language that Class I and II mobile food units are prohibited. Their Final Recommendation was signed on January 7, 2020.

Council considered the Ordinance at a public hearing on February 10, 2020.

Analysis of Goals:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

All documents relating to this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning code amendments in the local newspaper in accordance with notice requirements. The planning commission and the city council each held a

public hearing at which citizens were invited to participate. Therefore, the amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Code in accordance with the process and based on the criteria provided in the municipal code. Therefore, the amendments are consistent with Goal 2 or Goal 2 does not apply.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

The area affected by the proposed code amendment is located within the city's urban growth boundary. The area currently is designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

The area affected by the proposed zoning code amendment is within the city's urban growth boundary. The affected area does not include any designated forest lands. Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

"To protect natural resources and conserve scenic and historic areas and open spaces."

The proposed zoning code amendment affects only areas already committed to urban development and within the city's urban growth boundary. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore the Goal is met or the Goal is not applicable.

(6) Goal 6: Air, Water and Land Resources Quality

"To maintain and improve the quality of the air, water and land resources of the state."

The code amendment will not adversely affect the quality of the air, water, or land resources of the state. It does not by itself permit development that might affect air, water, or land quality. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

"To protect people and property from natural hazards."

The code amendment does not allow development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards.

The code amendment will not adversely affect the protection of people and property from natural hazards. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore the Goal is met or the Goal is not applicable.

(8) Goal 8: Recreational Needs

"To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts."

The proposed code amendment does not adversely affect the provision of or ability to site recreational areas in the City. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(9) Goal 9: Economic Development

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

The code amendment will not adversely impact Oregon's ability to provide economic opportunity to its citizens. The City of Lincoln City's most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. The amendment will further this goal. Therefore, the Goal is met.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The code amendment does not directly relate to the housing needs of the people of Lincoln City. The amendment will not adversely impact the City's ability to provide needed housing to its citizens. The City's most recent Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is not applicable.

(11) Goal 11: Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The code amendment does not relate directly to public facilities and services. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

The code amendment does not relate directly to transportation. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The plan amendment does not relate directly to energy conservation. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The plan amendment does not relate directly to urbanization. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The code amendment does not by itself allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay). The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries.

The code amendment by itself does not allow development in areas adjacent to the city’s designated coastal shorelands. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes.

The code amendment by itself does not allow development in areas adjacent to the city’s designated beaches and dunes. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The code amendment by itself does not allow development in areas that would affect marine resources and ecological functions. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

B. Comprehensive Plan Goals

(1) Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during their preparation, review, and revision. Review of the proposed code amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, in conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program. In addition, the public hearing process, with notice and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal. The Goal is met.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which complement the area and serve as a framework for urban and rural development.”

The code amendment does not relate directly to public facilities and services. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The area affected by the proposed zoning code amendment is within the city’s urban growth boundary. The amendment only concerns adding standards for

Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The code amendment does not authorize development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

The amendment does not relate directly to the housing needs of the people of Lincoln City. The City’s Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary.

The code amendment does not relate directly to the housing needs of the people of Lincoln City. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal not applicable.

(7) Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The amendment will not adversely impact Oregon’s ability to provide economic opportunity to its citizens. The City of Lincoln City’s most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in

specified commercial zones. The amendment will foster new commercial activity and economic growth. Therefore, the Goal is met or the Goal is not applicable.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances a human’s activities while protecting the exceptional aesthetic quality of the area.”

The code amendment does not relate directly to aesthetics. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. This goal is not applicable.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The code amendment does not relate directly to transportation. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The code amendment does not relate directly to energy conservation. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(11) Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The area affected by the proposed zoning code amendment is within the city’s urban growth boundary. The code amendment does not relate directly to environmental goals. The amendment only concerns adding standards for

Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, to protect, to enhance the coastal resources of the city."

The City's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries.

The area affected by the proposed zoning code amendment is within the city's urban growth boundary. The code amendment does not directly relate to shoreland, beaches, dunes estuary and ocean resources. The amendment only concerns adding standards for Mobile Food Units (a commercial use) and permitting such uses in specified commercial zones. Therefore, the Goal is met or the Goal is not applicable.

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS), ADDING A NEW CHAPTER 5.30 (MOBILE FOOD UNITS), ESTABLISHING LICENSING REQUIREMENTS FOR MOBILE FOOD UNITS.

Annotated to show deletions and additions to the code sections being modified. Deletions are bold lined-through and additions are bold underlined.

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293; 531 P 2d 730, 734 (1975); LaGrande/Astoria v. PERB, 301 Or 137, 142 (1978), aff'd on reh'g 304 Or 173 (1978); and

WHEREAS, Lincoln City Municipal Code Title 5 (Business Taxes Licenses and Regulations) sets forth business regulations, taxes and licenses, including licensing for street vendors (non-motorized food carts); and

WHEREAS, the location of mobile food units, like non-motorized food carts, has the potential to create pedestrian and vehicular traffic safety concerns; and

WHEREAS, the City of Lincoln City is interested in attracting and promoting operation of mobile food units, subject to the reasonable regulations and licensing provisions of this chapter; and

1 THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

2
3 SECTION 1. Lincoln City Municipal Code Title 5 (*Business Licenses, Taxes and Regulations*), is
4 hereby amended to add the following new Chapter 5.30 (*Mobile Food Units*):

5
6 Chapter 5.30
7 MOBILE FOOD UNITS

8 Sections:

- 9 5.30.005 Applicability.
- 10 5.30.010 Definitions.
- 11 5.30.020 License required – Fees – Issuance.
- 12 5.30.025 Application materials.
- 13 5.30.030 Insurance.
- 14 5.30.040 Inspection and permits.
- 15 5.30.050 [Reserved].
- 16 5.30.060 Sanitation.
- 17 5.30.070 Areas for street vending.
- 18 5.30.080 Method of operation.
- 19 5.30.090 [Reserved]
- 20 5.30.100 Violation – Penalty – Abatement – Revocation.

21
22 5.30.005 Applicability.

23
24 **A. This chapter regulates mobile food units operating on properly-zoned private property,**
25 **and on city-owned properties zoned Park (P). Mobile Food units are not permitted to**
26 **locate or operate in the right-of-way.**

27
28 **B. Mobile Food Units operating on city-owned property zoned Park (P) are subject to this**
29 **chapter but must also obtain approval of either an exclusive use permit and parks**
30 **concession agreement pursuant to Chapter 12.16 LCMC (Park Regulations) or a special**
31 **event permit and concession agreement pursuant to Chapter 5.16 LCMC (Special Events).**

32
33 5.30.010 Definitions.

34
35 **“Mobile Food Unit” is a mobile unit that meets state, county, and Department of**
36 **Motor Vehicles requirements for licensing, registration, and operation as a unit**
37 **utilized to provide commercial food preparation and serving to the general**
38 **public. Food may be prepared or processed on the unit, and said prepared or**
39 **processed food is sold and dispensed to the ultimate consumer from the unit.**
40 **Mobile Food Units are limited to Class III or IV as identified under OAR 333-162-**
41 **0020. Class I and II units as identified under OAR 333-162-0020 are prohibited**
42 **from functioning as a mobile food unit in Lincoln City. A mobile food unit does**
43 **not include a street vendor’s cart [Chapter 5.28] or a motor vehicle, trailer, or**

1 wagon used exclusively for selling prepackaged food items that are not altered
2 by the vendor (e.g. an ice cream truck) or the delivery of preordered food such as
3 pizza or carryout.

4
5 5.30.020 License required – Fees – Issuance.
6

7 A. No person shall operate as a vendor of a Mobile Food Unit without an annual license as
8 provided in this chapter. Each Mobile Food Unit requires its own separate license.

9 Licenses shall be issued by the Finance Department after compliance with this chapter and
10 LCMC 17.80.160 by the applicant.

11
12 B. A license must be obtained before operations are commenced and an application for
13 renewal shall be submitted with the yearly application for Occupation Tax Permit (OTP)
14 required by Chapter 5.04.020.B. and the required documents as specified in 5.30.080
15 Method of Operations). An expired license means all operations must cease immediately
16 until renewal is approved.

17
18 C. The annual license fee shall be in an amount set by the city council for the cost of
19 administering this licensing program, and such fee shall not be refunded if a license is not
20 issued or is revoked. The annual license fees of this chapter are in addition to the city
21 occupation tax, and Mobile Food Units shall comply with all provisions of the occupation
22 tax ordinance (Chapter 5.04 LCMC), except 5.04.050.B.

23
24 5.30.025 Application materials.

25
26 A. An applicant for a Mobile Food Unit license shall submit the following for license
27 approval and renewal:

28
29 1. Signed and dated official city application form for mobile food unit license.

30
31 2. Written agreement from property owner for mobile food unit use of site for the
32 license year.

33
34 3. Copy of approved land use application and site plan stamped “approved” for
35 proposed location.

36
37 4. Location of common eating area, if any.

38
39 5. Trash and food waste containment, storage and disposal plan.
40

- 1 **6. If applicable based upon the designated Class (III or IV) on the health department**
- 2 **permit, the proposed methods of containment, storage, and disposal for grease,**
- 3 **sanitary sewer, and wastewater.**
- 4 **7. Signed agreement or plan for vendor and patron restroom and hand washing**
- 5 **facilities.**
- 6
- 7 **8. Copy of all State, County, City food service licenses and permits for the license**
- 8 **year. [All applicants must meet state, county, and other applicable city standards**
- 9 **relating to, but not limited to: food preparation, Serve Safe, licensing, health and**
- 10 **safety standards].**
- 11
- 12 **9. Proof of insurance meeting city code requirements.**

13

14 **5.30.030 Insurance.**

15

16 **A. For Mobile Food Units located on City Park property the following insurance is**

17 **required: Unless waived or reduced by signature of the city manager and the planning**

18 **director, the following insurances shall be required: A Mobile Food Unit vendor shall be**

19 **required to provide general commercial liability insurance coverage for the licensee's**

20 **operations in an amount not less than \$1,000,000 per occurrence and \$2,000,000**

21 **aggregate. In addition, a mobile food unit shall provide property damage insurance**

22 **coverage in an amount not less than \$122,900 per occurrence and \$614,300 aggregate,**

23 **said amounts to be adjusted from July 1, 2020, and every year thereafter, as determined**

24 **by the State Court Administrator pursuant to ORS 30.273. A copy of a certificate of**

25 **insurance naming the city, its officers and employees as an additional insured shall be**

26 **supplied prior to issuance of the mobile food unit license. The insurance policy shall**

27 **further provide that the policy shall not terminate or be canceled without 30 days' written**

28 **notice to the city. When a mobile food unit is located on public property there shall be no**

29 **reduction in insurance below applicable Oregon tort claim limits.**

30

31 **B. For Mobile Food Units located on private property the following insurance is**

32 **required: A Mobile Food Unit vendor shall be required to provide general commercial**

33 **liability insurance coverage for the licensee's operations in an amount not less than**

34 **\$1,000,000 per occurrence and \$2,000,000 aggregate. In addition, a mobile food unit shall**

35 **provide property damage insurance coverage in an amount not less than \$100,000 per**

36 **occurrence and \$500,000 aggregate.**

37

38 **5.30.040 Inspection and permits.**

39

40 **A. Prior to issuance of a mobile food unit license the fire marshal shall inspect each mobile**

41 **food unit. The Fire Marshal shall certify that the mobile food unit, its location, and any**

1 cooking or heating apparatus are all in conformance with the provisions of applicable fire
2 codes.

3
4 B. No person shall be issued a mobile food unit license unless the person submits with the
5 application proof that all health and sanitary permits required by the state and county
6 have been obtained.

7
8 5.30.050 [Reserved].

9
10 5.30.060 Sanitation.

11 All utensils and equipment used by a licensed mobile food unit shall be maintained in a
12 clean and sanitary condition and shall conform to all standards prescribed by state law
13 and county ordinance and regulations adopted pursuant thereto.

14
15 5.30.070 Areas for location of mobile food units.

16
17 A. Mobile food units may operate on:

18
19 1. Private property zoned planned industrial, professional campus, general
20 commercial, recreation-commercial, Oceanlake plan districts (all
21 subcategories), Taft village core and Nelscott plan district (NBD and NBMU
22 subcategories). (See Title 17). All vendor operations on such private property
23 must be shown on the approved site plan. (LCMC 17.52.240.)

24
25 2. City-owned property zoned Park (P), when such commercial use is
26 authorized by LCMC Chapter 12.16 with a concession agreement and
27 exclusive use permit or by LCMC Chapter 5.16 with a concession agreement
28 and special event permit.

29
30 3. An application for an annual mobile food unit license shall include a copy
31 of the approved and final land use approval demonstrating the approved
32 food unit location, clearly demonstrating the location does not disrupt
33 pedestrian or vehicular access, and clearly demonstrating compliance with
34 ADA accessibility requirements to the satisfaction of the ADA coordinator.

35
36 B. Mobile food units approved under this chapter shall not operate or be located within:

37
38 1. Public right of way; and

39
40 2. State of Oregon parks or waysides, unless granted a permit by the Parks
41 Division of the Oregon Department of Transportation.

42
43 5.30.080 Method of operation.

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A. A mobile food unit license is non-transferable.

B. A mobile food unit may only operate in an approved location as shown on an approved land use application, or as shown on an approved Parks and Recreation Department Exclusive Use Permit or Special Event Permit.

C. A mobile food unit shall be operated in accordance with all federal, state and local laws and ordinances.

D. No mobile food unit vendor shall occupy any parking spaces required for existing uses.

E. Mobile food units shall not be located or operated in such a manner as to obstruct or impede vehicle or pedestrian traffic or ADA accessibility requirements.

F. Mobile Food units must utilize biodegradable packaging. No plastic or styrofoam based packaging of products is allowed to be provided to the general public.

G. Mobile Food unit vendors shall pick up any food waste, paper, cardboard, wood, or plastic containers, wrappers, trash, debris, and/or any litter in any form which is deposited by any person on the sidewalk or street or other property within 35 feet of a mobile food unit at any time the operation is open for business, and shall be responsible for the proper disposal of same. Wastewater shall be properly disposed of which does not include disposal in a storm drain or on the ground.

H. No mobile food unit vendor or employee shall make any loud noise in violation of the noise ordinance or place any temporary signage on public or private property.

I. No person who holds a mobile food unit vendor license shall engage in activities in violation of any conditions or requirements stated in the license.

J. A mobile food unit may have a securely attached and anchored retractable canopy or awning, not to exceed the length of the unit and a depth of five feet.

K. A mobile food unit operating on city-owned property is required to sign a standard concession agreement and pay a ten percent (10%) gross revenue concession fee to the city. In lieu of the ten percent concession fee, the finance director, in the finance director's sole discretion, may elect to use a daily or monthly flat rate concession fee (in addition to any other rental charges) for use of city property. Such flat rate fees shall be established by council fee resolution after the opportunity for public comment. Concession fees are due monthly to the Finance Department for continuing operations and within 10 days of special events or short term (less than two months) operations. Failure to pay concession fees shall be treated as theft and referred for prosecution.

L. An annual mobile food unit license under this chapter shall not be renewed or issued for another year to the same vendor until the license applicant has submitted an annual report and documentation for the preceding year(s) including (1) gross sales; (2) concession fees paid; (3) other fees and charges paid for use of public property or right-of-way; (4) Priority/Priority Foundation Fail records for the previous year. No mobile food unit license shall be issued to a vendor who has failed to remit concession fees and been referred to collections/prosecution, or who has failed to remit any other required records.

5.30.090 [Reserved]

5.30.100 Violation – Penalty – Abatement – Revocation.

A. Any mobile food unit who violates any of the provisions of this chapter commits a violation. Any such violation shall be punished under the provisions of Chapter 1.16 LCMC as a Class B violation.

B. Each day’s violation of a provision of this chapter constitutes a separate offense.

C. Any violation of this chapter is deemed a nuisance. The abatement of such a nuisance is in addition to any other penalty or remedy. A nuisance may be abated as provided in LCMC 8.12.150 through 8.12.180, or in any other manner authorized by law.

D. In addition to other penalties or remedies, the municipal court judge may revoke a mobile food unit vendor’s license upon a finding that a vendor has violated any provision of this chapter or upon a finding that the license was obtained by fraud or misrepresentation by the applicant.

SECTION 2. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 3. Severability.

The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Ordinance Effective Date.

2020-06

February 10, 2020

1 Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its
2 adoption.
3

SECTION 5. Codification.

Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 10th day of February, 2020 (First Reading) and on the 10th day of February, 2020 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 10th day of February, 2020.

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

Albany looks to create food cart rules

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https://www.gazettetimes.com/news/local/albany-looks-to-create-food-cart-rules/article_ecddb4-094e-5b34-a1d8-55d3805aabd9.html

FEATURED

Albany looks to create food cart rules

CAITLYN M. MAY

Mar 10, 2021



Norene Collins has installed heaters, lights, picnic tables and ADA-accessible paths at her two food carts along Pacific Boulevard. Monday, the city code compliance officer presented a draft ordinance to the Albany City Council that would outlaw benches, heaters and lights, along with storage units, at food carts.

Mark Ylen, Mid-Valley Media

CAITLYN M. MAY

The city of Albany may be altering the rules around food trucks.
Albany looks to create food cart rules

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A potential ordinance was brought forth at a City Council work session on Monday by code compliance officer Kris Schendel, who said multiple issues have surrounded the trucks within the city. Currently, he said, there are about 18 in operation and three more are expected to be up and running soon.

Issues ranging from land use approvals, development code violations and permit waiting times were addressed in the draft Schendel submitted on Monday.

Albany looks at food cart rules

“Mobile food units are a growing industry within Oregon with between 2,000 to 3,000 operators, depending on the time of year,” Schendel wrote in a memo to the council. “Many restaurant startups have moved to mobile food units as a launching point to their business due to less overhead and start-up costs. This change in business models was amplified by COVID-19.”

“This increase in mobile food units across Albany has led to multiple issues such as impacts to the visual landscape and previous land use approvals, violations of the development code, long wait times for permit processing, and a sense of unclear standards and requirements by many mobile food unit operators,” he continued.

“These impacts have also led to a significant increase in the staff time required to manage mobile food units as city staff tries to work within the limitations of the existing code.”

Albany looks to create food cart rules

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Several food truck operators spoke out on the possible changes, including Dylan Harvey, who said he welcomed further clarification.

“Things are confusing sometimes when it comes to codes, so something easier to work with you guys would be beneficial,” he said.

Harvey went on to note that some of the proposed changes around property requirements and restrooms wouldn't make sense for all food trucks.

Norene Collins owns two food carts and a beer wagon in Albany and spoke about the proposed changes on Wednesday.

“I think there definitely needs to be some changes,” she said. “There haven't been real guidelines for food carts specifically.”

Collins' three mobile units, located at 520 Pacific Blvd. NW, specialize in New York-style sandwiches, grilled cheese and draft brew. She's been in the business since 2009 and said business has continued to be good throughout the pandemic.

“We were fortunate to be able to work through COVID and continue to serve customers through takeout, and we do have some seating,” Collins said.

Seating was raised as an issue on Monday with the proposed ordinance prohibiting amenities at food carts — including chairs.

“No amenities shall be placed on the site; this includes but is not limited to chairs, tables, heaters, lighting and displays,” the law reads in its current form.

Collins has heaters as well and says it creates an environment customers enjoy.

“They can enjoy a beer and then walk over and get a sandwich,” she said.

No action was taken on Wednesday, with Schendel expected to bring a revised version of the potential new law to the council at a later date.

Albany looks to create food cart rules

SHARE THIS



MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager 
 Marcia Harnden, Police Chief

FROM: Kristopher Schendel, Code Compliance Officer

DATE: March 3, 2021, for the March 8, 2021, City Council Work Session

SUBJECT: Mobile Food Units Code

Relates to Strategic Plan themes: Great Neighborhoods and Effective Government

Action Requested:

Receive the staff report on Mobile Food Units within Albany and review proposed Mobile Food Unit code language for discussion and direction.

Discussion:

The attached draft ordinance amends Albany Municipal Code (AMC) Title 5, Business Licenses and Regulations, to add Chapter 5.06 Mobile Food Units. This is a continuance of the discussion that took place at the November 30, 2020, City Council Work Session.

Mobile food units are a growing industry within Oregon with between 2,000 to 3,000 operators depending on the time of year. Many restaurant startups have moved to mobile food units as a launching point to their business due to less overhead and start-up costs. This change in business models was amplified by COVID-19. Albany currently has 18 mobile food units split between a pod model and single truck operator models, with 3 other known operators set to open within the next month.

This increase in mobile food units across Albany has led to multiple issues such as impacts to the visual landscape and previous land use approvals, violations of the development code, long wait times for permit processing, and a sense of unclear standards and requirements by many mobile food unit operators. These impacts have also led to a significant increase in the staff time required to manage mobile food units as City staff tries to work within the limitations of the existing code.

The attached Chapter 5.06 Mobile Food Units draft is for your discussion and consideration with the goal of mitigating all impacts while also allowing mobile food units to begin operating more quickly and efficiently.

Budget Impact:

None.

KS:hr
Attachment



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 5 BY ADDING A NEW CHAPTER 5.06 TITLED MOBILE FOOD UNITS.

WHEREAS, the City of Albany is adding AMC Chapter 5.06, Mobile Food Units, to address and regulate mobile food units; and

WHEREAS, mobile food units are an increasing business venture that encourages a pedestrian-oriented environment, provides a larger selection of choices to the public, and promotes overall commerce; and

WHEREAS, mobile food units impact traffic, visual landscapes, and change the use of existing property; and

WHEREAS, lack of regulation has led to confusion for mobile food unit owners and led to increased workloads for City staff.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Amending AMC Title 5, Business License and Regulations. AMC Title 5 is hereby amended to add Chapter 5.06 titled Mobile Food Units:

Sections:

- 5.06.010 General Provisions.
- 5.06.020 Permit Required.
- 5.06.030 Definitions.
- 5.06.040 Mobile Food Unit Pods.
- 5.06.050 Permit Fees.
- 5.06.060 Permit Application.
- 5.06.070 Zoning.
- 5.06.080 Standards.
- 5.06.090 Utilities.
- 5.06.100 Signage.
- 5.06.110 Forms and Conditions of Permit.
- 5.06.120 Permit Renewal.
- 5.06.130 Prohibitions.
- 5.06.140 Special Events and Exemptions.
- 5.06.150 Denial, Revocation, or Suspension of Permit.
- 5.06.160 Penalties.

5.06.010 General Provisions.

- (1) Purpose. The purpose of the Mobile Food Units (MFU) code is to develop guidelines under which an MFU can establish a long-term business, on private property, without the development of an MFU Pod.
- (2) Conformity to State and County Laws. The MFU code shall be construed in conformity with the laws, licenses, and regulations set forth by the State of Oregon and Linn and Benton counties regarding MFUs.
- (3) Saving Clause. If any provision of the MFU code is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality, and enforceability of any other provision of the MFU code.

5.06.020 Permit Required.

Use of an MFU within the city limits of Albany shall be prohibited unless an MFU permit is obtained from the City Manager or designee.

5.06.030 Definitions.

For the purposes of the MFU Code, the following definitions apply. Terms, phrases, words, abbreviations, and derivatives used, but not specifically defined in this section, shall have the meanings commonly accepted in the community.

- (1) Improved lot – A lot with a paved or concrete surface.
- (2) Mobile food unit – A vehicle that is propelled, or can be pulled or pushed down a sidewalk, street, or highway, on or in which food is prepared, processed, or converted, or is used in selling and dispensing food to the customer through walk-up service.
- (3) Mobile food unit pod – A group of two or more mobile food units on the same tax lot as shown through the county records.
- (4) Walking distance – The distance it would take an individual to walk while obeying all laws and traffic control devices.
- (5) Waste – Any byproduct of the activities associated with the MFU including but not limited to blackwater and greywater.

5.06.040 Mobile Food Unit Pods.

MFU pods require Albany Public Works, Building and Planning permitting before operation.

5.06.050 Permit Fees.

Rates and fees shall be set by Council resolution.

5.06.060 Permit Application.

- (1) Application for a permit will minimally contain:
 - a. A completed MFU application form.
 - b. A scaled site plan of the tax lot and proposed area the MFU will be located, to include at a minimum:
 - i. Total square footage of area proposed for MFU use,
 - ii. Circulation Plan of vehicle and pedestrian traffic in and out of the property,
 - iii. Parking Plan,
 - iv. Consistency with all setbacks and separation requirements as specified in the Albany Development Code (ADC),
 - v. Details demonstrating compliance with the standards set forth in this section.
 - c. Copies of all necessary permits for the county in which the permittee plans to operate.
 - d. Method of wastes disposal (liquid and solid).
- (2) Additional information shall be provided as required by the City Manager or designee.

5.06.070 Zoning.

MFU shall be located within an approved zone (CB – Central Business, PB - Pacific Boulevard, OP – Office Professional, CC – Community Commercial, RC – Regional Commercial, MUC – Mixed Use Commercial, LI – Light Industrial, HI – Heavy Industrial, IP – Industrial Park, and Downtown Commercial Historic District).

5.06.080 Standards.

- (1) An MFU is not a permanent structure and shall:
 - a. Remain operable and able to move,
 - b. The wheels and tongues shall remain on the MFU,
 - c. The tires shall remain inflated,
 - d. No permanent skirting or base shall be constructed around the MFU.
- (2) An MFU shall only operate on an improved lot where off-street parking requirements for all uses or activities served by the off-street parking area are met.
- (3) An MFU must maintain a 10-foot minimum clearance from any structure or combustible item.
- (4) One smoker cooking unit may be placed outside of the MFU and shall be placed within 10 to 15 feet of the MFU.
- (5) MFU operators shall pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter that is deposited by any person and which was generated from the MFU business from the ground of the tax lot on which they conduct business and from all adjacent public right-of-way.
- (6) Restrooms shall be provided on site or through written permission from a business or property owner within 300 feet of walking distance of the MFU site.
 - a. Restrooms shall be available during the MFU hours of operation.
 - b. A minimum of one restroom shall be accessible to persons with disabilities and shall be located on an accessible route.
 - c. Restrooms shall not be via portable/chemical toilet or privy.
 - d. Alternatively, where an MFU can show that there is a public restroom located within 300 feet of the MFU site, the requirement shall be waived.
- (7) An MFU may provide awnings for shelter to customers. The awning must be fully attached to the MFU, have a minimum of seven (7) feet of vertical clearance, and be able to be closed or removed. All awnings must be flame resistant per Oregon Fire Code.
- (8) Any additional lighting or amenities shall be contained within the MFU.
- (9) Each MFU shall be deemed in compliance with the Oregon Fire Code by the Albany Fire Department.
- (10) An accessible route shall interconnect the required parking, MFU, and accessible bathrooms.
- (11) All MFU are subject to all applicable city, county, and state regulations.

5.06.090 Utilities.

An MFU shall be fully contained (i.e., provide its own water, power, and waste disposal).

- (1) Electrical connection may be made via a permitted connection approved by the Albany Building Official.
 - a. Connection shall be made within 50 feet of an MFU.
 - b. Connection shall be accessible.
 - c. Connection cables/cording shall be maintained in good condition.
 - d. Electrical connections shall be covered by a cable protection ramp which has been rated for light vehicle traffic or greater and which has an anti-slip surface.
- (2) Electrical connection may be made via a power generator provided the following standards are met:
 - a. Connection shall be made at a distance not less than 10 feet and not more than 15 feet from the MFU.
 - b. Connection cables/cording shall be maintained in good condition.
 - c. Generator is placed at least 10 feet from other buildings, structures, and combustibles.

- d. Generator exhaust is directed away from the MFU, buildings, structures, combustibles.
- e. Generator is protected from contact by the public.
- f. Generator shall not be operated within 300 feet of residential zoning.
- g. Electrical connections shall be covered by a cable protection ramp which has been rated for light vehicle traffic or greater and which has an anti-slip surface.

5.06.100 Signage.

Each MFU is allowed two A-frame signs on the permitted tax lot. A-frame signs must conform to the following standards:

- (1) May not exceed three feet in width.
- (2) May not exceed four feet in height.
- (3) Shall not be placed in the public right-of-way.
- (4) Shall not be placed in the clear vision area as defined in Albany Development Code Section 12.180.

5.06.110 Forms and Conditions of Permit.

The permit issued shall be in a form deemed suitable by the City Manager or designee. In addition to naming the MFU owner as permittee and other information deemed appropriate, the permit shall contain the following minimum conditions.

- (1) Each permit shall terminate 365 calendar days after its issuance and may be renewed by submitting a new application and paying the required fees.
- (2) The permit issued shall be personal to the permittee only and is not transferable in any manner. The permittee is responsible for compliance with all conditions of approval.
- (3) The permittee shall notify the City Manager or designee, and pay the required fee(s), if they wish to modify an existing permit by moving within the approved lot or to a new lot.

5.06.120 Permit Renewal.

MFU permits may be renewed an unlimited number of times.

5.06.130 Prohibitions.

- (1) No amenities shall be placed on the site; this includes but is not limited to chairs, tables, heaters, lighting, and displays.
- (2) No temporary structures or storage containers shall be placed or erected on the site other than those granted by the Building Official through a permit.
- (3) MFU shall not be parked in required landscape areas.
- (4) No drive-through service shall be permitted.
- (5) MFU, including all items associated with the operation, shall not obstruct any required pedestrian pathways, driveways, or drive aisles and shall be located so as not to create a traffic or safety hazard.
- (6) No dumping of waste is permitted in the City's storm drain system, public streets, or directly onto pavement.

5.06.140 Special Events and Exemptions.

- (1) An MFU may operate within the Albany city limits for two consecutive days within a 30-day period without obtaining an MFU permit.

-
- (2) MFU may operate within a Farmer’s Market that holds a valid facility use agreement through the City of Albany without first obtaining an MFU permit.
 - (3) Any event hosted by the Albany Parks and Recreation Department is exempt from an MFU permit. The MFU shall complete an application and obtain the proper approval directly from the Albany Parks and Recreation Department.
 - (4) Any event hosted at the Linn County Fairgrounds is exempt from an MFU permit.

5.06.150 Denial, Revocation, or Suspension of Permit.

- (1) The City Manager or designee may deny, revoke, or suspend an MFU permit upon finding that any provision herein or condition of approval will be or has been violated.
- (2) Upon denial, revocation, or suspension, the City Manager or designee shall give notice of such action to the applicant or permittee in writing stating the action that has been taken and the reason. The action shall be effective immediately.

5.06.160 Penalties.

Any violation of this chapter by any MFU owner or property owner shall be deemed a misdemeanor as provided under AMC 1.04.010.

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

City Clerk

https://www.columbiagorgenews.com/thedalleschronicle/news/food-carts-see-new-regs/article_e55803b5-a425-5a04-bc0f-e47da07c951c.html

Food carts see new regs

Mark Gibson **The Dalles** Chronicle
Jan 3, 2020

Mobile food vendors previously licensed in The Dalles as transient merchants will be operating under new food vendor permits in the coming year, following adoption of new codes by The Dalles city council in December.

Prior to the change, food carts in the city were permitted as transient merchants, a category that included all temporary or short-term vendors, including food carts. Under the new rules, operators will be able to license their food carts under short, medium and long-term regulations, according to the staff report.

Type 1 or short-term licenses will be available in 30 day increments, renewable up to 180 days. Type 2 or medium-term licenses will be available in one-year increments, with a two year maximum. Type 3 or long-term licenses will apply to food carts with related structures and connections to city utilities like water and sewer.

Type 1 and 2 food vendors will not be allowed to connect to public utilities and can provide outdoor seating (4 tables with 6 seats at each table maximum) only when a restroom facility with a hand washing station is available within one-quarter mile walking distance or within a five-minute walk.

from the mobile food unit.

Type III vendors include those seeking to connect to public utilities, those requesting additional structures or seating areas other than the allowed outright uses, or those requesting more than one food truck to be located on the same lot. Long term vendors will be required to complete a site review, which is a planning process that addresses parking and permanent or semi-permanent structures, like dining canopies.

Under the new regulations, the City will require documentation showing where water will be collected from and how waste (wastewater, oil and grease) will be disposed of.

Councilor Rod Runyon asked what options were available for the type 2 vendor if the two year limit was not enough.

"They would have to move to a new location," said associate planner Riley Marcus. "A food cart that remains over two years is more like a restaurant, less like a mobile vendor. It ends at that location."

Councilor Russ Brown asked if the new regulations would impact events like the carnival, and was told that city-sanctioned events were exempt from the permit requirements.

Marcus noted that there had been issues in recent years regarding grease being dumped in storm drains, and RV dump stations being used for waste disposal. "We are proposing waste collection services," Marcus said.

Currently a \$10 investigation fee and a separate license fee is required to apply for a transient merchant license.. The current license fee for one month or less is \$25 and an annual fee is \$50, a total of \$35 or \$60 dollars with the investigation fee. With the proposed changes, the investigation fee for a Transient Merchant License and a Mobile Food Vendor will be \$20. To help offset the higher cost of the investigation fee, the \$20 will apply towards the license fee.

The new license fees for mobile food vendors are Type I, \$30 (valid for 30 days) and \$25 per extension; Type II, \$150 (Valid for 12 months) and \$130 for an extension (valid for one additional 12-month period). Type III will require a site plan review fee of \$440.

If a Mobile Food Vendor offers at least two "healthy" items on their menu, they will receive a 15 percent reduction in permit fees.

Vendors will be allowed on private property in various commercial zones, but in residential zones they will only be allowed in areas zoned as neighborhood centers.

The new regulations were approved unanimously following a public hearing, in which no comments were made.

When asked about the approved regulations, Samir Marquez, who operates a food cart at Jefferson and Second streets, said rules specific to food vendors would be welcomed. "We aren't just general street vendors, it could help to have rules specifically for food trucks," Marquez told the Chronicle. He has been a vendor since 2008, and is in his third year at his current location. He said what is or isn't allowed by the city has been inconsistent. "We hope to stay here," he added. "Hopefully next year will be another good year."

MOBILE FOOD VENDOR AND TRANSIENT MERCHANT LICENSE

On December 9, 2019, the City Council adopted General Ordinance No. 19-1376, amending Chapter 8.28 Transient Merchants and adding Chapter 8.29 Mobile Food Vendors to Title 8 - Business of The Dalles Municipal Code.

The definition of a “Transient Merchant” was revised to separate vendors operating food trucks from other types of temporary vendors. This change resulted in the new Mobile Food Vendor Chapter 8.29 which better addresses individuals operating food trucks selling ready to eat foods.

The new Mobile Food Vendor (MFV) Chapter created three different classifications:

Type I. A Type I MFV has the ability to obtain one 30-day license and allows the applicant to apply for up to five 30-day extensions (180-days maximum). Type I MFVs will not be allowed to connect to public utilities. Outdoor seating (4 tables with 6 seats at each table maximum) can be provided only when a restroom facility with a handwashing station is available within one-quarter mile walking distance or five minute walk from the mobile food unit.

Type II. A Type II MFV has the same requirements as a Type I MFV, however, a Type II license is valid for one 12-month time period with the ability to obtain one 12-month extension.

Type III. A Type III MFV requires a Site Plan Review (a type of Land Use review through Title 10 Land Use and Development) for approval. Type III vendors might include those seeking to connect to public utilities, requesting additional structures or seating areas other than the allowed outright uses, or requesting more than one food truck located on the same lot.

The new MFV Chapter identifies zones within the Urban Growth Boundary (UGB) where food trucks are allowed to operate. The City will now require documentation showing where water will be collected and how waste will be disposed. Outdoor seating, which is not addressed in the current Transient Merchant Chapter, is also now defined.

An investigation fee is still required upon receipt of a completed application to the City Finance Department. This fee has increased from \$10 to \$20 and will apply towards the Applicant’s license fee. The current license fee for one month or less is \$25 and an annual fee is \$50, (total of \$35 or \$60 dollars with the investigation fee). New license fees for a Transient Merchant License are as follows:

Six months or less \$50, One six month extension \$50.

New license fees for a Mobile Food Vendor are as follows:

Type I: \$30 (valid for 30-days), \$25 extension (valid for an additional 30 days, up to 5 extensions are allowed for a maximum of 180-days total)

Type II: \$150 (valid for 12-months), \$130 extension (valid for one additional 12-month period).

Type III: Site Plan Review fee of \$440.

Vendors can reduce the license fee by 15% when offering a minimum of two healthy food items.

For additional information please contact Riley Marcus at rmarcus@ci.the-dalles.or.us, or at 541-296-5481 ext. 1132.

Chapter 8.29 MOBILE FOOD VENDORS

8.29.010 Purpose.

This chapter provides reasonable and necessary regulations for the licensing of mobile food vendors in order to protect public health and safety, reduce potential impacts to pedestrian and vehicular traffic on streets and sidewalks, and protect and preserve the economic, historic and aesthetic values and objectives of the City. These regulations shall apply to activities on City-owned and private property. Regulation of mobile food vendors shall not apply to parties conducted by private individuals.

The regulations of this chapter are not intended to permit any violation of the provisions of any other law or regulation and exemption of a use from the provisions of this chapter shall not exempt the use from other applicable provisions of this Code. (Ord. 19-1376)

8.29.020 Definitions.

“License” as used within this chapter shall mean a mobile food vendor license.

“Mobile food vendor” or “MFV” as used within this chapter means and includes every person who occupies a fixed location and who is engaged in or participating in a temporary or transient business of selling or exhibiting for sale, or purchasing, food, beverages, or other use similar in nature as approved by the City, of any name or nature in the City. The term “mobile food vendor” shall not be construed to apply to an operator of a concession or business exhibiting for sale, food, beverages, or other use similar in nature as approved by the City, of any name or nature as part of or in connection with any approved athletic event, rodeo, carnival, festival, fair, public exhibition or farmers market held within the City.

“Temporary or transient” as used within this chapter generally means a person or business that is temporary or seasonal in nature, within any space that is leased, rented, or used on a short-term basis. (Ord. 19-1376)

8.29.030 Licenses.

Each license shall be issued for a single location, and no mobile food vendor shall change location except when the different location is approved as part of a license renewal.

A. Type I. A mobile food vendor not requiring direct connection to public utilities for the preparation or storage of that which is being offered for sale. A license for a Type I mobile food vendor is good for a period of 30 days, with a maximum of five renewals per calendar year (180-day maximum). Outdoor seating may be allowed (a maximum of four tables and six seating spaces per table) only when a readily available restroom facility is located within one-quarter mile or five-minute walk from the mobile food unit. Restrooms must have a handwashing facility that provides hot and cold water, soap, and paper towels or air dryer, as required per OAR 333-162-0020. Portable toilets are not allowed.

B. Type II. A mobile food vendor not requiring connection to public utilities for the preparation or storage of that which is being offered for sale. A license for a Type II mobile food vendor is good for a period of 12 months. A Type II license may be renewed one time to allow for an additional 12-month period (24 months maximum). Outdoor seating may be allowed (a maximum of four tables and six seating spaces per table) only when a readily available restroom facility is located within one-quarter mile or five-minute walk from the mobile food unit. Restrooms must have a handwashing facility that provides hot and cold water, soap, and paper towels or air dryer, as required per OAR 333-162-0020. Portable toilets are not allowed.

C. Type III. (1) A mobile food vendor requiring the connection to public utilities for the preparation or storage of that which is being offered for sale; (2) a mobile food vendor seeking additional structures or outdoor seating; or (3) a mobile food vendor pod (more than one food vendor on a lot). A Type III mobile food vendor will be required to be reviewed through Site Plan Review (Per Title 10 Land Use and Development, Article 3.030). Outdoor seating may be allowed (a maximum of four tables and six seating spaces per table) only when a readily available restroom facility is located within one-quarter mile or five-minute walk from the mobile food unit. Restrooms must have a handwashing

facility that provides hot and cold water, soap, and paper towels or air dryer, as required per OAR 333-162-0020. Portable toilets are not allowed. (Ord. 19-1376)

8.29.040 Application.

No person or other entity shall engage, conduct or participate in the business of a mobile food vendor in the City without first obtaining a license as provided in this chapter. Mobile food vendors shall not be located within the public right-of-way.

- A. The following provisions shall apply to mobile food vendors operating on City-owned or private property:
1. Mobile food vendors shall only be allowed within the following zoning designations:
 - a. CBC – Central Business Commercial district.
 - b. CG – General Commercial district.
 - c. CLI – Commercial/Light Industrial district.
 - d. CR – Recreational Commercial district.
 - e. I – Industrial district.
 - f. NC – Neighborhood Center overlay, with additional requirements as set forth in Section 8.29.050 below.
 - g. CFO – Community Facilities overlay, with additional requirements as set forth in Section 8.29.050 below.
 - h. P/OS – Parks and Open space district.
- B. An applicant shall submit a site plan showing the proposed location that the mobile food vendor will be located on the subject property, distance from the property boundary lines, parking areas, and how traffic will enter and exit the subject property. If outdoor seating is requested, a maximum allowance of four tables with six seats at each table is allowed; however the outdoor seating must be shown on the site plan. Outdoor seating is only allowed when evidence of a bathroom facility within one-quarter mile or five-minute walk from the mobile food unit can be provided. Restrooms must have a handwashing facility that provides hot and cold water, soap, and paper towels or air dryer, as required per OAR 333-162-0020. Portable toilets do not qualify as a bathroom facility and are not allowed on site.
- C. All waste must be disposed of in compliance with all City, County, and State standards, and may not be poured into storm sewers, the sanitary sewer system, Recreational Vehicle dump sites, or onto the ground, without written authorization provided. The applicant shall provide documentation or a narrative providing further details as to how a mobile food vendor will dispose of all grease, fats, and oils. Further documentation will also be required to show how a mobile food vendor will fill their water tanks and dispose of their wastewater.
- D. Written permission from the property owner for the proposed use is required.
- E. No person shall engage in the business as a mobile food vendor on City-owned or private property, including, but not limited to, the Lewis and Clark Festival Park area, without first obtaining a license as required by this chapter. Any person seeking to operate a mobile food vendor on City-owned or private property shall submit an application and receive approval.
- Applicants for a mobile food vendor license will also be required to complete all necessary applications to reserve a space in the Lewis and Clark Festival Park area, and to comply with all rules and regulations adopted by the City governing activities in the Lewis and Clark Festival Park area.
- F. Any structures, carts, vending units, or other appurtenances used by the mobile food vendor shall not be located or relocated onto City-owned or private property until commencement of the license term, and shall be removed from the property promptly upon expiration of the license term.
- G. The activities of the mobile food vendor shall not impair or impede the flow of pedestrian or vehicular traffic on public or private property.
- H. Mobile food vendors issued a license by the City shall indemnify and hold the City and its officers, agents, and employees harmless from and against all claims for injury, loss or damage arising out of or in any way related to the

operation of the mobile food vendor's business. This agreement to indemnify or defend shall survive the termination or revocation of the mobile food vendor's license.

I. Applicants for a mobile food vendor license on City-owned or private property shall be subject to and comply with all other applicable provisions of this chapter. (Ord. 19-1376)

8.29.050 Neighborhood Center and Community Facilities Overlays.

Mobile food vendors are allowed within the NC – Neighborhood Center Overlay and CFO – Community Facilities Overlay. However due to the close proximity of the Neighborhood Center and Community Facilities Overlay districts to residential uses, mobile food vendors in these areas will have limited hours of operation (hours of operation shall be restricted between 10:00 a.m. and 7:00 p.m.) and will be required to be located at least 100 feet from the nearest residence. (Ord. 19-1376)

8.29.060 License Fee—Issuance.

The applicant shall submit an investigation fee and a complete application for City review. Applications shall be made to the City in writing and shall contain the following information:

- A. The name and address of the person or entity to whom the license will be issued to;
- B. The nature of the business to be conducted;
- C. The day or days for which the license is to be granted;
- D. The location upon which the business will be conducted; and
- E. A description of the business operation adequate to inform City officials of its appearance and manner of operation.

The City shall review the application, and upon verification that the investigative fee has been paid and all other requirements have been met, the license shall be issued upon receipt of the applicable license fee. The mobile food vendor shall receive a copy of the license and shall display it conspicuously at its place of business. (Ord. 19-1376)

8.29.070 Fee Reductions.

The application fee for a mobile food vendor may be reduced by 15% if the applicant is able provide at least two healthy food options on their menu for purchase.

“Healthy food” definition: Any plant-based menu option that does not include fried food, trans fats, or high fructose corn syrup, and that has been vetted by the North Central Public Health District. (Ord. 19-1376)

8.29.080 State and County License Required.

No license shall be issued to a mobile food vendor unless the applicant submits with its application documentation that it has obtained all health and sanitary licenses from the State and County where applicable. (Ord. 19-1376)

8.29.090 Signs.

Any sign erected or maintained by a mobile food vendor shall comply with regulations for signs adopted by the City, per Municipal Code Chapter 10.13. A permit is required for all other types of signs. Feather signs, banners, balloons and other inflatable devices are allowed only for a period of seven days, per Section 10.13.030.020 Temporary Signs, after the approval of a Sign Permit. (Ord. 19-1376)

8.29.100 Outdoor Seating Areas or Accessory Structures.

Any outdoor seating to be located within the public right-of-way must obtain and receive approval on a Sidewalk Furniture Permit from the Community Development Department. Any additional outdoor seating other than the allowed outright four

tables and six seats per table will be required to go through a Site Plan Review.

Umbrellas are allowed to be at each table to provide for any covered and shaded seating. Umbrellas must be anchored down and weighted at all times when in use, and must be removed at the end of each day. Additional accessory structures or other forms of covered seating will be required to be reviewed through a Site Plan Review. (Ord. 19-1376)

8.29.110 Agent for Service.

The applicant shall appoint a local person, acceptable to the City Attorney, as an agent for accepting service of process, notice or demand required or permitted by law to be served upon the applicant. The applicant shall submit with its application the agent's acknowledged consent to accept such service for the applicant. (Ord. 19-1376)

8.29.120 Conditions.

In addition to the requirements herein, conditions of operation which are necessary to protect the public health, safety and general welfare may be imposed on a license. (Ord. 19-1376)

8.29.130 Grounds for Denial.

In addition to the requirements listed above, a license shall not be issued if:

- A. Any false or misleading information is supplied in the application or any information requested is omitted from the application.
- B. The applicant has been convicted of a crime involving unlawful trade practices as defined by ORS 646.608, fraud or theft within the last five years.
- C. The applicant has been the subject of an unlawful trade practices suit or investigation under ORS Chapter 646 which resulted in civil penalties assessed against it.
- D. The applicant's proposed actual business operation presents a danger to the public health, safety and general welfare which cannot be alleviated through the imposition of a condition of operation.
- E. The applicant is unable to provide proof of compliance with all applicable State and County licensing requirements.
- F. The applicant has failed to comply with any other applicable provision of this chapter relating to the proposed conduct of the business. (Ord. 19-1376)

8.29.140 Transferability.

No license issued pursuant to this chapter shall be transferable. (Ord. 19-1376)

8.29.150 Revocation.

- A. A license, once issued, may be revoked upon the following grounds:
 - 1. Violation of any of the requirements of this chapter.
 - 2. The actual operation of the mobile food vendor operation in a manner presenting a danger to the public health, safety and general welfare, or creating a public nuisance.
 - 3. Fraud, misrepresentation or incorrect statement contained in the application for the license.
 - 4. Fraud or misrepresentation in the course of conduct of the licensed business.
 - 5. Conviction of any crime involving fraud or theft.
 - 6. Violation of any provision of The Dalles Municipal Code.
- B. Notice of revocation shall be delivered to the licensee or its agent set forth in writing the grounds thereof by the City Attorney. Notice shall be delivered either personally or by certified mail, return receipt requested, to the current

address shown on the City's records. Upon receipt of such notice, the licensee's business operation shall be terminated and removed within four hours. (Ord. 19-1376)

8.29.160 Violations.

Violation of any of the provisions of this chapter is an infraction, punishable by a fine not to exceed the sum of \$250.00 for each violation thereof. The sale of each article by any mobile food vendor without a license shall be deemed a separate offense under this chapter and a separate violation of this section. (Ord. 19-1376)

8.29.170 Appeal.

Any mobile food vendor aggrieved by the denial or revocation of a license or any action taken by the City under this chapter shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within 14 days of the action or conduct complained of, a written statement setting forth the grounds for appeal. The City Council shall set a time and place for hearing within 30 days of receipt of such statement and written notice shall be delivered to the appellant and all affected parties in the manner provided herein for delivery of notices of revocation. The decision of the City Council after such hearing shall be in writing, shall set forth findings of facts and shall be final. A certified copy of the decision of the Council shall be delivered to the appellant and all affected parties in the manner indicated above. (Ord. 19-1376)

8.29.180 Action on Expiration of License.

Upon the termination of its license, the mobile food vendor shall remove its business operation, including all signs and vehicles from the licensed location within four hours and shall leave the location in a clean and orderly manner. (Ord. 19-1376)



Published on *Lincoln County Oregon* (<https://www.co.lincoln.or.us>)

[Home](#) > [Printer-friendly](#) > [Mobile Food Units \(Food Carts\)](#)

Mobile Food Units (Food Carts)



[1]

All mobile food units (food carts) must be licensed and pass a health inspection prior to operation. This applies to any portable vehicle where food is prepared, sold and/or dispensed to a consumer.

Mobile food units include:

- Drive-through espresso carts
- Hot dog carts
- Full-service trailers

You must get a plan review and food service license before:

- Opening a new food cart
- Extensively remodeling a mobile food unit
- Reinstating a mobile food unit that been out of service for 12 consecutive months

You must also notify us when:

- Your menu changes
- Your location or route changes
- Changing ownership

Good to Know

Prior to receiving your license from us, there may be other agencies from which you will be required to obtain approvals. **These include, but are not limited to:**

- Planning (zoning)
- Building codes (structural, electrical, plumbing, prefabricated structures)
- Fire marshal
- City or county authorities

Food handler cards [2] are required for all persons working in a mobile food unit or base of operation. **You can take the test online** [3].



Requirements

The mobile food unit must:

- Be a vehicle and not require a special permit from the Oregon Department of Transportation to be moved.
- Be on wheels and have the ability to be mobile at all times during operation and have no permanent connection to any utility service (including water, sewer, or electrical).
- Include operations and equipment that are all integral to the unit.

Refer to the [Plan Review Packet](#) ⁽⁴⁾ for additional requirements.

[Mobile Food Unit Operation Guide](#) ⁽⁵⁾

[Oregon Mobile Food Units Rules](#) ⁽⁶⁾



Get a License

If you are opening, remodeling or reinstating a mobile food unit:

You must first obtain a plan review. Submit to Lincoln County Environmental Health:

- A completed [Plan Review Packet](#) ⁽⁴⁾
- Detailed plans of the unit
- The plan review fee payment

You must also obtain and pass any other required inspections from local authorities.

Expect to receive a response within 10 business days. After your plan has been approved, you may begin construction. You may then submit your [Mobile Unit License Application](#) ⁽⁷⁾ and [fee](#) ⁽⁸⁾.

Once construction is complete, call us to arrange a pre-opening inspection. This can usually be scheduled 1 week after you call. You must receive and pass the Health Department pre-opening inspection before you can open.

After a food service license has been acquired, the restaurant will receive its first inspection within a few weeks.

Food Cart Forms

[Plan Review Packet](#) ⁽⁴⁾

[Mobile Unit License Application](#) ⁽⁷⁾

FEES

[2019 - 2020 Fee Schedule](#) ⁽⁹⁾

RENEW

Licenses are good for one calendar year. Renew your license by paying the license fee by December 31 of each year.

CONTACT US

Lincoln County Environmental Health

Mailing address: 36 SW Nye St, Newport, Oregon 97365

Physical address: 255 Oregon Coast Highway, Suite 203A, Newport, Oregon 97365

Phone: (541) 265-4127 (leave a message)

Fax: (541) 574-6252

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The mission of Lincoln County is to provide essential public services, both legally required and locally desired, in an efficient, effective, and respectful manner.

```
function googleTranslateElementInit() { new google.translate.TranslateElement({ pageLanguage: 'en', layout:
  google.translate.TranslateElement.InlineLayout.SIMPLE }, 'google_translate_element'); }
  Site Design by Aha Consulting
```

Source URL: <https://www.co.lincoln.or.us/hhs/page/mobile-food-units-food-carts>

Links

[1] https://www.co.lincoln.or.us/sites/default/files/styles/gallery500/public/imageattachments/hhs/page/4944/hot-dog-stand-04152009.jpg?itok=g_AD10Kf

[2] <http://www.oregon.gov/oha/PH/HealthyEnvironments/FoodSafety/Pages/cert.aspx#about>

[3] <http://www.orfoodhandlers.com/eMain.aspx?State=OREGON>

[4] <http://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/FOODSAFETY/Documents/muplanreview.pdf>

[5] <http://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/FOODSAFETY/Documents/muguide.pdf>

[6]

https://secure.sos.state.or.us/oard/displayDivisionRules.action;JSESSIONID_OARD=3h1tCLH3HFGy2XDk0Zh5VzVHqyiRyb2utculZgqq4kO6EfbOwkL!2072817505?selectedDivision=1333

[7] <http://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/FOODSAFETY/Documents/mulicenseapp.pdf>

[8] http://www.co.lincoln.or.us/sites/default/files/fileattachments/health_amp_human_services/page/5113/fee_schedule_2018-19.docx.pdf

[9] https://www.co.lincoln.or.us/sites/default/files/fileattachments/page//fee_schedule_2019-20.docx.pdf



Lincoln County Environmental Health Fee Schedule



Public Health
Prevent. Promote. Protect.

Lincoln County
Environmental Health

Effective July 1, 2019

Important Information: Licensed facility fees are due each year on December 31st. Late payment penalty fees are assessed every month, on the first day of the month, until the facility is closed or the license is paid. **Licenses are non-transferrable.** Pro rata fee for new facilities or change of owner from October 1st to December 31st is 50% of annual fee

FACILITY TYPE:

FOOD:

Restaurants, 0-15 seats	\$636.00
Restaurants, 16-50 seats	\$697.00
Restaurants, 51-150 seats	\$830.00
Restaurants, 150+ seats	\$940.00
Limited service restaurant	\$354.00
Bed & Breakfast Restaurant	\$279.00
Mobile Unit	\$252.00
Mobile Unit (Out of County)	\$ 25.00
Commissary (unlicensed facility)	\$442.00
Commissary (licensed facility)	\$252.00
Warehouse	\$176.00
Vending, 1-10 Units	\$ 45.00

TEMPORARY RESTAURANTS:

(Add a \$40 late fee if payment is received less than one week before the event.)

Single Event, 1-30 Day	\$123.00
Intermittent Event, 30 Day	\$170.00
Seasonal Event, 90 Day	\$170.00
Seasonal Event Plan Review	\$ 85.00

POOLS & SPAS:

First Pool or Spa	\$446.00
Each additional pool or spa	\$296.00

TRAVELERS ACCOMODATIONS:

1-10 rooms	\$113.00
11-25 room	\$205.00
26-50 rooms	\$380.00
51-75 rooms	\$546.00
76-100+ rooms	\$698.00
plus \$3.00 per ea add'l room over 100.00	
Organizational Camps	\$174.00
RV Park, 1-10 spaces	\$118.00
RV Park, 11-25 spaces	\$220.00
RV Park, 26-50 spaces	\$405.00
RV Park, 51-75 spaces	\$580.00
RV Park 76-100+ spaces	\$742.00
plus \$3.00 per ea add't space over 100.00	

PLAN REVIEW (one-time fee)

NEW ESTABLISHMENT OR MAJOR REMODEL:

Full service restaurant	\$464.00
Organizational camp w/food	\$464.00
Bed & Breakfast	\$139.00
Commissary	\$231.00
Warehouse	\$ 92.00
Limited service restaurant	\$139.00
Mobile Unit	\$139.00

SIMPLE REMODEL OR MENU CHANGES:

Full service restaurant	\$187.00
Organizational camp without food	\$187.00
All other facilities	\$92.00

OTHER FEES:

Day-Care/Other requested insp.	\$103.00
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FOOD HANDLER TRAINING:

Program and certificate	\$ 10.00
Duplicate certificate	\$ 5.00

FOOD SERVICE FEES

Recheck inspection if over 2/year	\$106.00
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SUPPLIES

Chlorine test strips, 100 per vial	\$4.00
Chlorine test strip roll, 2 rolls	\$5.50
Quaternary Ammonia test strips	\$6.00
Digital probe thermometer	\$20.50

**FOOD SERVICE
LICENSE APPLICATION
MOBILE UNIT, COMMISSARY, WAREHOUSE, VENDING MACHINE**

- Mobile Unit Commissary Warehouse Vending Machine
Class: _____ # Units: _____
 New Construction Remodel
 Change of Ownership Former establishment name: _____

Establishment Name: _____
Establishment Physical Address: _____
Establishment Billing Address: _____
Establishment Phone #: _____

Owner/Applicant Name: _____
 Individual Corporation Partnership Other: _____

Do you own other establishments licensed by the Health Dept.? No Yes
Name(s): _____

Owner Physical Address: _____
Owner Billing Address: _____
Owner Phone #: _____ **Owner Cell #:** _____
Owner Fax #: _____ **Owner E-mail:** _____

The payment of \$ _____ license fee is hereby made for application to operate the above establishment in compliance with all applicable food service regulations. I understand that failure to meet the requirements of the provisions of Oregon Revised Statutes, Chapter 624, and the Administrative Rules, Chapter 333, of the Oregon Health Authority may require denial or revocation of the license. Furthermore, I attest that the information provided on this form is accurate.
Signature of Applicant: _____ **Date:** _____

Mail application and check payable to your local Environmental Health Office at:

FOR OFFICE USE ONLY
Fee received: _____ **Date:** _____
 Cash Check# _____ Money Order
Inspected by: _____ **Date:** _____
 Approved Not Approved

MOBILE FOOD UNIT PLAN REVIEW PACKET

Complete the attached documents and submit them with the required plan review fee to the local environmental health department. **Approval from the local environmental health department must be obtained prior to construction or operation of your unit.** Include the following information with your plan review submission:

A. Mobile Food Unit Plan Review Application

B. Mobile Food Unit License Application Form

C. Menu – Attach a complete menu: A printed menu or list of all food you will serve

D. Floor Plan/Equipment Layout

- Complete plans of the unit drawn to scale, including floor plan, equipment location, and plumbing fixtures
- Handwashing sink
- Three-compartment sink with drain boards; include dimensions (L x W x D) of interior of sink basin.
- Indirect drain for three-compartment sink
- Food preparation sink (if applicable)
- Water pump and hot water heater
- All equipment in unit, including, but not limited to: (a) Type/model of refrigeration and freezer equipment, (b) Cooking equipment, (c) Hood vent, etc.
- Fresh water tank: size (L x W x D) and location
- Waste water tank: size (L x W x D) and location

E. Plan Review Worksheet

- Table 1 Food Handling Procedures
- Table 2 Material List
- Table 3 Refrigeration/Freezer Capacity
- Table 4 Hot Holding Units
- Table 5 Plumbing (indirect drain, etc.)
- Table 6 3-Compartment Sink Measurements
- Table 7 Fresh Water Tank Measurements
- Table 8 Waste Water Tank dimensions
- Table 9 Operating Schedule

F. Waste Water Disposal Form (if needed)

G. Restroom Agreement Form (if needed)

H. Commissary (Commercial Kitchen) Verification Form

I. Cooling Plan and Logs (if needed)

General Requirements and Limitations

Mobile Unit: A mobile food unit is defined in OAR 333-150-0000, 1-201.10 as "*...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.*"

Classifications: There are four types of mobile food units. The mobile food unit classifications are based upon the type of **menu served**. Failure to obtain approval for a menu change after it has initially been approved may result in closure of your unit.

CLASS I - These units can serve only intact, packaged foods and non-potentially hazardous drinks. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed.

CLASS II - These units may dispense unpackaged foods. However, no cooking, preparation or assembly of foods is allowed on the unit. No self-service by customers is allowed.

CLASS III - These units may cook, prepare and assemble food items. However, cooking of raw animal foods on the unit is not allowed.

CLASS IV - These units may serve a full menu.

Maintained as Approved: Mobile food units must be maintained and operated as originally designed and approved. Units that have been modified without approval must revert to the approved design and operation. OAR 333-162-0020

Wheels: Mobile food units must remain mobile at all times. The wheels of a mobile food unit must be functional and appropriate for the type of unit and may not be removed at the operating location. OAR 333-162-0030

Designed in One Piece: Mobile food units must be designed and constructed to move as a single piece. Mobile food units may not be designed to be assembled at the operating location. See OAR 333-162-0020 for exceptions.

Integral: All operations and equipment must be integral to the mobile food unit. Integral means rigidly and physically attached to the unit without restricting the mobility of the unit while in transit. The following exceptions are allowed:

Auxiliary Storage: A mobile unit may provide auxiliary storage outside the unit to support daily operations if:

- Items are limited to what is necessary for that day's operation.
- At the end of the workday, auxiliary storage must be placed in the unit, in a licensed warehouse or at a licensed commissary.

- No self-service, assembly or preparation activities may occur from auxiliary storage containers.
- Refrigerators and freezers may not be placed outside the mobile food unit for use as auxiliary storage and must be located in the unit, in a licensed warehouse or at a licensed commissary.

Shelves and Tables: Mobile food units may use small folding shelves or tables that are integral to the unit to display non-potentially hazardous condiments and customer single-use articles such as napkins and plastic utensils. OAR 333-162-0020

Non-PHF Display: Mobile food units may display commercially packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if limited to what can be served or sold during a typical meal period. OAR 333-162-0020

Cooking Units: Class IV mobile food units may use one cooking unit, such as a BBQ or pizza oven, that is not integral to the unit. The cooking unit may not be a flat top grill, griddle, wok, steamtable, stovetop, oven or similar cooking device. The cooking unit must be able to move with the unit. OAR 333-162-0020

Exterior Protection: Mobile food units must be secured and protected from contamination when not in operation. OAR 333-162-0680

Water and Sewer Capacity: Mobile food units must be designed with integral water and sewer tanks on the unit. A mobile food unit may connect to water and sewer if it is available at the operating location, however tanks must always remain on the unit. A unit cannot connect directly to fresh water without a direct connection to sewer as well. OAR 333-150-0000, Section 5-305.11

Restroom Distance: If a unit is parked in the same location for more than two hours, a restroom must be provided that is located within 500 feet of the unit. OAR 333-150-0000, Section 6-402.11

Seating: Mobile food unit operators may provide seating for customers if a readily accessible restroom and sufficient refuse containers with lids or covers are provided. OAR 333-162-0020

Commissary: A mobile food unit is required to operate from a licensed commissary or warehouse unless the unit contains all the equipment and utensils necessary to assure the following:

- (a) Maintaining proper hot and cold food temperatures during storage and transit;
- (b) Providing adequate facilities for cooling and reheating of foods;
- (c) Providing adequate handwashing facilities;
- (d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;
- (e) Obtaining food and water from approved sources;
- (f) Sanitary removal of waste water and garbage at approved locations.

A mobile food unit may **not** serve as a commissary for another mobile food unit or as the base of operation for a caterer. OAR 333-162-0040

Warehouse: A warehouse may be used for storage of only unopened packaged foods, single service articles, utensils and equipment. Activities such as handling of unpackaged food, dishwashing and ice making are prohibited in a warehouse. OAR 333-162-0940

Catering and Delivery: A mobile food unit may not provide catering services unless:

- 1) The unit operates from a licensed commissary; or
- 2) The unit has commercial-grade refrigeration equipment, has obtained a variance from the Oregon Health Authority, and uses only single-use articles for service to customers. OAR 333-162-0030

Finally, while this document contains some detailed information about the rules for the construction and operation of mobile food units, it does not contain all the requirements for your unit. Please refer to the Food Sanitation Rules www.healthoregon.org/foodsafety.

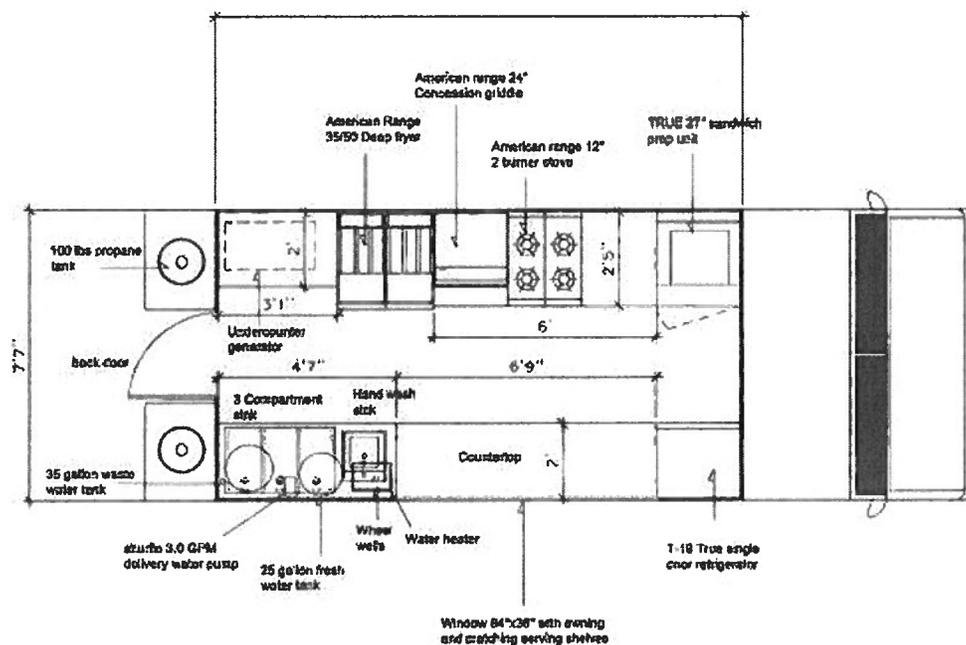
Requirements	Class I	Class II	Class III	Class IV
Water Supply Required	No	Yes	Yes	Yes
Handwashing System Required	No	Yes ¹	Yes ¹	Yes ¹
Dishwashing Sinks Required	No	Yes – Or Licensed Commissary ²	Yes – Or Licensed Commissary ²	Yes ²
Assembly or Preparation Allowed	No	No	Yes	Yes
Cooking Allowed	No	No	Yes ³	Yes
Off-Unit Cooking Operation Allowed	No	No	No	Yes
Restroom Required	Yes	Yes	Yes	Yes
Examples	Prepackaged Sandwiches/ Dispensed Soda	Service of Unpackaged Food Items	Espresso/ Hot Dogs	No Menu Limitation

¹The handwashing system must be plumbed to provide hot and cold or tempered running water and a minimum of 5 gallons of water must be dedicated for handwashing.

²If provided, must have a minimum of 30 gallons of water for dishwashing or twice the capacity of the three compartment sinks, whichever is greater.

³May only cook foods that are not potentially hazardous when raw (rice, pasta, etc.). Animal foods must be pre-cooked.

***FLOOR PLAN LAYOUT EXAMPLE:**



Note: Your floor plan does not need to be an engineer's copy, but it must have all the required information from Tables 2-8 clearly shown.

E: Plan Review Worksheet Tables 1-9

Table 1: Food Handling			
Procedures	Yes / No	If Yes, Where Will Procedure Take Place	
		Mobile	Commissary
Washing fruits and/or vegetables	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Thawing frozen foods ¹	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Food preparation - chopping, par-cooking, marinating, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Cooking food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Cooling food ²	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Reheating food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Refrigeration (cold holding) of foods	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Steam table or other way of hot holding food	<input type="checkbox"/> Yes <input type="checkbox"/> No		
¹ How you will thaw frozen foods:			
² If cooling foods, one of the below processes must be in place. Please choose option a, b or c below: a. I have a licensed commissary where I will be cooling foods; or b. I will be using a commercial refrigeration unit(s) on the mobile unit; or c. I am providing a written cooling procedure accompanied by cooling logs for approval. To do this option, you must provide a written procedure for each food item you will be cooling with your packet.			
Explain what you will do with leftover foods:			
Will raw or undercooked animal products be served? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the specific animal products that will be served raw or undercooked (example: eggs, ground beef):			
Will any food items be held without temperature control during service? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list the specific food items held out of temperature during service:			
Explain other procedures that you will be doing that have not been listed previously:			

Table 2: Material List				
Describe surface finishes used on floors, walls, ceilings and countertops.				
Material Type	Counters	Floors	Walls	Ceiling
Fiber-reinforced plastic (FRP)				
Stainless Steel				
Vinyl				
List other construction materials used:				
Are windows and/or doors screened: <input type="checkbox"/> Yes <input type="checkbox"/> No If no, how will you control for pest problems? (Attach your procedures for pest control)				

Table 3: Refrigerator/Freezer Capacity				
Unit Type	Yes / No	Make/Model of Unit	# of units	Power Source Electric (E) Generator (G) Propane (P) Other (O)
Reach in refrigerator (under counter)	Yes No			
Refrigerator (stand up)	Yes No			
Prep top sandwich refrigerator	Yes No			
Reach-in freezer (under counter)	Yes No			
Freezer (stand up)	Yes No			
Fridge/Freezer (stand up)	Yes No			
Other cold holding storage	Yes No			
Do you have thermometers inside each refrigerator and freezer: Yes No				

Note: Mobile food units newly licensed in Oregon may not utilize cold plates that do not have an associated power source, such as a battery, generator or propane tank, as the sole means for temperature control. OAR 333-162-0880

Table 4: Hot Holding Units				
Unit Type	Yes / No	Make/Model of Unit	# of units	Power Source Electric (E) Generator (G) Propane (P) Other (O)
Steam Tables	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Other Hot Holding Storage	<input type="checkbox"/> Yes <input type="checkbox"/> No			
What type of ventilation system do you have? Type 1 hood Type 2 hood Other system				
If other system, please describe:				

Table 5: Plumbing Fixtures: Check items in the mobile unit and provide required information				
Three-compartment sink	Yes No	Food preparation sink with indirect plumbing	Yes No	
Indirect plumbing on three-compartment sink	Yes No			
P-trap (not required)	Yes No	Backflow prevention device	Yes No	
Handwashing sink	Yes No	Mechanical pump	Yes No	
Hot & cold water	Yes No	Hot water heater	Yes No Gallons?	

Table 6: Three-Compartment Sinks/Dishwashing Provide interior of sink basins dimensions in inches – length x width x depth			
Dimensions of Interior of Sink Basins			How many drain boards
Length	Width	Depth	

Where will washing of equipment and utensils take place:

Mobile unit three-compartment sink¹

Licensed Restaurant or Commissary

¹Provide LxWxD for the interior basins of the three-compartment sink. Provide separate measurements of each sink basin if they are different sizes.

To determine the minimum amount of water that must be dedicated for dishwashing purposes, you need to calculate the capacity of your three-compartment sink. Measure the inside of the three-compartment sink basin in inches, then multiply Length x Depth x Width = ___/231 x 6 = ___ gal. This is the minimum amount of water that must be provided for dishwashing.

For example: If sinks are 10 x 10 x 14/231 x 6 = 36 gallons.

*Note: All sinks must provide water under pressure of a least 20 PSI. Gravity fed is not allowed.
OAR 333-150-0000, 5-203.11*

Table 7: Fresh Water Tank – Must Be Translucent			
Dimensions of Fresh Water Tank (in inches)			
Length	Width	Depth	Capacity in gallons

Please indicate water dedicated to the following purposes:

Activity	Required	Provided
Handwashing	Minimum 5 gallons	
Dishwashing (See Table 6)	Minimum 30 gallons	
Cleaning		
Use in product (ex: ice making, coffee making)		
Equipment (ex: filling steam tables)		

Tank Location: _____

Table 8: Waste Water Tank – Must be 15% Greater than Fresh Water Tank			
Dimensions of Waste Water Tank (in inches)			
Length	Width	Depth	Capacity in gallons ¹

Tank Location: _____

How will the waste water be removed and where will it be disposed from your waste water tank?

Does liquid producing equipment (ex: espresso machine) drain indirectly into the waste water tank?
 Yes No If yes, list equipment: _____

Table 9: Operating Location/Schedule	
Name of your mobile unit:	<input type="checkbox"/> I plan to operate at one location <input type="checkbox"/> I plan to operate at multiple locations
Operating Location – Address, City, Zip Code: _____	
If operating at multiple locations, please list location name or address and approximate time and dates at each location: _____	



Oregon Health Authority
Food, Pool & Lodging, Health and Safety Program

MOBILE FOOD UNIT OPERATION GUIDE

Guidelines for Food Service

OREGON HEALTH AUTHORITY

Mobile Food Unit Operation Guide

QUESTIONS?

Contact your county health department for information on licensing your mobile unit:

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/LOCALHEALTHDEPARTMENTRESOURCES/Pages/lhd.aspx>

Oregon Health Authority
Foodborne Illness Prevention Program
800 NE Oregon Street, Suite 640
Portland, OR 97232

www.healthoregon.org/foodsafety

Rev 2/2020

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A graphic with a grey background. At the top, the word "Chapter" is written in a bold, black, sans-serif font. Below it, a large, white, bold number "1" is centered.

Mobile Food Unit Operation Guide

A summary of the Food Sanitation Rules relating to mobile food units

The Mobile Food Unit Operational Guide is intended to help you set up and operate your mobile food unit in a sanitary and safe manner. By focusing on critical food safety practices, you will reduce the possibility of foodborne illness. While this document contains some detailed information about the rules for the construction and operation of mobile food units, it does not contain all the requirements for your unit. Unless otherwise noted, sections of the Food Sanitation Rules, Oregon Administrative Rules (OAR) 333-150-0000 are provided for you to obtain specific rule requirements. The Oregon Food Sanitation Rules www.healthoregon.org/foodsafety.

Licensing Your Mobile Food Unit

A license is required. Before a Mobile Food Unit is licensed, it must go through a plan review with the local Environmental Health Department. Prior to licensing, there may be other agencies from which you will be required to obtain approvals. These include, but are not limited to planning (zoning), Fire Marshall, and other city or county authorities. Oregon law requires that all food service activities open to the public be licensed **PRIOR** to operation.

Maintain the unit as approved. Mobile food units must be maintained and operated as originally designed and approved. Units that have been modified without approval must revert to the approved design and operation. If a mobile unit operates in a county other than where it is licensed, the operator is required to notify the health department in the county where it has moved prior to operating.

County Health Departments

Contact your county health department early in your planning process. Determine what county you will be operating your mobile unit. The county's environmental health program contact information can also be found at this website or in the table below:
<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/LOCALHEALTHDEPARTMENTRESOURCES/Pages/lhd.aspx>

Baker	541-473-5186	Lake	541-947-6045
Benton	541-766-6841	Lane	541-682-4480
Clackamas	503-655-8384	Lincoln	541-265-4127
Clatsop	503-325-8500	Linn	541-967-3821
Columbia	503-397-7210	Malheur	541-473-5186
Coos	541-266-6720	Marion	503-588-5346
Crook	541-447-8155	Morrow	541-278-6394
Curry	541-425-7545	Multnomah	503-988-3400
Deschutes	541-322-7400	Polk	503-623-9237
Douglas	541-440-3574	Sherman-NCPH	541-506-2753
Gilliam-NCPH	541-506-2753	Tillamook	503-842-3943
Grant	541-620-0965	Umatilla	541-278-6394
Harney	541-620-0965	Union	541-962-8818
Hood River	541-387-6885	Wallowa	971-673-0442
Jackson	541-774-8206	Wasco-NCPH	541-506-2753
Jefferson	541-475-4456	Washington	503-846-8722
Josephine	541-474-5325	Wheeler	541-620-0965
Klamath	541-883-1122	Yamhill	503-434-7525

What is a Mobile Food Unit?

A mobile food unit is any vehicle that is self-propelled, or can be pulled or pushed down a sidewalk, street, highway or waterway. Food may be prepared or processed on this vehicle, and the vehicle is used to sell and dispense food to the ultimate consumer. Mobile food units must be secured and protected from contamination when not in operation. Mobile food units have no size limit, but they must meet the following requirements:

Wheels: Mobile units must be mobile at all times during operation. The unit must be on wheels that are functional and appropriate for the type of unit at all times.

Designed in One Piece: Mobile food units must be designed and constructed to move as a single piece. Mobile units may not be designed to be assembled at the operating location.
333-162-0020

Integral: The unit and all operations and equipment must be integral to the unit. This does not preclude the use of one outdoor cooking unit such as a BBQ with a Class IV unit.

Water and Sewer Capacity: Potable water tanks must be designed to be accessible and translucent to determine cleanliness and cleaned at least every 6 months. The tanks must

accommodate the amount of water needed for the operation of the unit including at least 30 gallons for dishwashing, 5 gallons for handwashing, and additional gallonage needed for food preparation and cleaning. The waste tank must be a minimum of 15% greater than the freshwater tank. A mobile food unit may connect to water and sewer if it is available at the operating location. If the unit cannot connect directly to the sewer, then the unit may not connect to the public water system. The water and sewer tanks may not be removed from the unit even if water and sewer are available. 5-305.11

Water Pressure: All sinks must provide water under pressure of a least 20 PSI or provide for a continuous flow of water. Gravity fed is not allowed.

How is a Mobile Food Unit Classified?

There are four types of mobile food units. The mobile food unit classifications are based on the menu. A mobile food unit can serve menu items within its classification number or below (see Table 1). For example, a Class III unit may also sell items allowed under Class II and I.

- Class I** These units can serve only intact, packaged foods and non-potentially hazardous beverages. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages may be provided from covered urns or dispenser heads only. No dispensed ice is allowed.
- Class II** These units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged food is not allowed. Preparation, assembly or cooking of foods is not allowed on this unit.
- Class III** These units may serve any food item allowed under Class II, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal food on the unit is not allowed.
- Class IV** These mobile food units may serve a full menu.

Table 1: Mobile Food Unit General Requirements and Limitations

Requirements	Class I	Class II	Class III	Class IV
Water Supply Required	No	Yes	Yes	Yes
Handwashing System Required	No	Yes ¹	Yes ¹	Yes ¹
Dishwashing Sinks Required	No	Yes – Or Licensed Commissary ²	Yes – Or Licensed Commissary ²	Yes ²
Assembly or Preparation Allowed	No	No	Yes	Yes
Cooking Allowed	No	No	Yes ³	Yes
Off-Unit Cooking Operation Allowed	No	No	No	Yes
Restroom Required	Yes	Yes	Yes	Yes
Examples	Prepackaged Sandwiches/ Dispensed Soda	Service of Unpackaged Food Items	Espresso/ Hot Dogs	No Menu Limitation

¹The handwashing system must be plumbed to provide hot and cold or tempered running water and a minimum of 5 gallons of water must be dedicated for handwashing.

²If provided, must have a minimum of 30 gallons of water for dishwashing or twice the capacity of the three compartment sinks, whichever is greater.

³May only cook foods that are not potentially hazardous when raw (rice, pasta, etc.). Animal foods must be pre-cooked.

Base of Operation

Base of Operation Mobile food units must operate from a base of operation or be fully self-contained. The regulatory authority will determine whether self-contained mobile food units have the ability to operate without a base of operation. To do so, the units must contain all the equipment and utensils that a commissary would provide. A mobile food unit may not serve as a commissary for another mobile food unit.

Activities Allowed Outside of the Unit

All operations and equipment must be an integral part of the mobile food unit, unless your proposed activity meets one of the three exceptions and specific conditions are met. The three exceptions are the use of a cooking unit, customer seating, and auxiliary storage.

Cooking Unit **Cooking Unit:**

Class IV mobile food units may use **one** cooking unit, such as a BBQ or pizza oven that is not integral to the unit. The cooking unit **may not** be a flat top grill, griddle, wok, steamtable, stovetop, oven or similar cooking device. The cooking unit must be able to move with the unit.

A Class IV mobile food unit may use a cooking unit when:

- It is in close proximity to the mobile food unit
- It is used only for cooking. Processing, portioning, preparation, or assembly of food must be conducted from inside the mobile food unit
- A handwashing system must be provided adjacent to the cooking unit.

Seating for Customers Operators may provide seating for customers if restrooms are readily accessible within 500 feet of the mobile food unit 6-402.11 The restroom must have a handwashing facility that provides hot and cold running water, soap, and paper towels or air dryer. When seating is provided, mobile food units must provide a garbage container for customers.

Shelves, Tables and Off-Unit Display Shelves or tables that are integral to the unit may be used to display non-potentially hazardous condiments and customer single-use articles such as napkins and plastic utensils. Mobile food units may display commercially packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if they are limited to what might be sold during a typical meal period.

Auxiliary storage **Auxiliary storage shall be limited to an amount that can be used in the course of a day's operation** and stored in such a manner as to prevent contamination or infestation (water-tight covered containers). At the end of the day, items **must be placed in the unit or a licensed warehouse**. No self-service, assembly or preparation activities may occur from the auxiliary storage container.

Refrigerators and freezers may **not** be placed outside the unit and must be in the unit or in a licensed warehouse. Handling of unpackaged foods, dishwashing and ice making are **prohibited** in a warehouse.

Mobile Food Units Operating at Temporary Events

Events include fairs, carnivals, circuses, festivals, concerts or any other temporary public gathering. As a licensed mobile food unit, you may operate as a single-event temporary restaurant as specified under ORS 624.650. If you are operating at a temporary event that you may utilize off-unit tables and display areas for non-potentially hazardous foods and dispensed beverages, condiments, and single-service articles such as napkins and utensils. However, the off-unit tables and display areas allowed under this rule may not be used to conduct activities such as food preparation, assembly or cooking. In addition, the display or dispensing of potentially hazardous foods is not allowed. Mobile food units that place equipment or conduct operations outside the unit that are beyond those allowed in this rule must obtain a single-event temporary restaurant license from the county where the event will be held.

Food Handler Certificates

All food service workers must obtain a food handler certificate. For more information on how to obtain a food handler certificate, contact your County Health Department or go to:

<https://www.orfoodhandlers.com/eMain.aspx>

Chapter 2

Food Sanitation Requirements

Person In Charge (PIC)

Someone at your mobile unit must be in charge during all hours of operation. This person is responsible for knowing the food sanitation rules and the procedures within your unit. This person needs to be able to provide employees with information they need to perform their job. The Person In Charge (PIC) must inform employees to notify the PIC when the employee is experiencing fever, sore throat, or gastrointestinal symptoms such as vomiting, diarrhea, and nausea. The PIC must have the authority to send an employee home (Sections 2-101.11; 2-201.12). The PIC must also be able to describe the major food allergens and the symptoms that they could cause if a customer had an allergic reaction.

The person in charge is required to demonstrate knowledge of rules applicable to the food service operation. Demonstration of knowledge can be met by obtaining a food manager training certificate, having no critical violations, or by correctly answering the inspector's food safety questions. Critical violations are violations that are known to cause foodborne illness. See www.healthoregon.org/foodsafety/for approved food manager certificates.

Sick Employees Must Not Work

Employee Illness Any person, who is infected with a communicable disease, has vomiting, abdominal cramps or diarrhea must **not** work in food service until the person is completely free from symptoms (Section 2-201.11). Employees with undiagnosed vomiting and diarrhea may not return to work for at least 24 hours after symptoms have gone.

Infected sores or cuts on employee hands must have a watertight cover such as a finger cot that protects the lesion and a single-use-non-latex glove is worn. Infected sores or cuts on other parts of the body, such as the arms, need to be covered by a dry clean tight-fitting bandage. Latex gloves are prohibited (Section 3-304.15).

Handwashing Facilities

Handwashing facilities must have warm running water, dispensed soap, paper towels, and a wastebasket. (Sections 6-301.11; 6-301.12; 6-301.20; 6-302.11).

Class II, III and IV mobile units must be plumbed to provide hot and cold running water.

When and How to Wash Hands Handwashing is very important when working with food and drinks. Handwashing removes microorganisms that are known to cause illness. Food workers need to wash hands between changing tasks, after handling raw meats, and anytime hands may have been contaminated. The best way to wash hands is to scrub for about 20 seconds with warm running water and soap. Rinse and dry hands with paper towels (Sections 2-301.12; 2-301.14; 2-301.15).

A double handwash is required whenever you enter the unit, after using the restroom, after smoking, and anytime hands become contaminated with body fluids. A double handwash requires you to lather hands with soap and warm water for approximately 20 seconds, rinse, and repeat a second time. Dry hands with paper towel. A double handwash is to prevent the spread of diseases that workers might have even though they are not yet showing the symptoms (Section 2-301.13).

Food Source

All food products must be wholesome and free of spoilage, microorganisms, toxic chemicals, and other harmful substances that can make people sick. All food products must be prepared, stored, handled, or displayed so that it is safe for people to eat (Sections 3-201.11 thru 3-201.17).

Home canned or home processed foods are not allowed. All food must either be prepared in the unit or obtained from an approved source. Home-prepared foods must not be stored on the unit or served to the public. The only alternative to preparing the food in the unit is to prepare the food in an approved licensed facility such as a commissary. If you plan to prepare food off the unit, a separate commissary license is required.

Water Source

All water used in the mobile food unit must be from an approved public water system. A mobile food unit may also use commercially bottled water (Sections 5-1; 5-2; 5-3).

Potentially Hazardous Foods (PHF)

Potentially hazardous foods are:

- Food of an animal origin (raw or cooked)
- Cooked plant products
- Raw seed sprouts, cut melons, garlic and oil mixtures, cut leafy greens and tomatoes

Examples: hamburgers, tacos, hot dogs, spaghetti, chili, cooked rice, cooked potatoes, and cooked beans (Section 1-201.10).

Food Temperatures

Hot and Cold Holding Potentially hazardous foods must be kept cold at 41°F or colder or kept hot at 135°F or hotter. Temperatures between 41°F and 135°F allow for rapid growth of bacteria that can make people sick. Use equipment capable of holding food hot (135°F or hotter). Open flames often fail and blow out. Be sure equipment will work and can hold food hot at all times (Sections 3-501.11 thru 3-501.19).

Use refrigerators or ice to store food cold (41°F). The ice must be from an approved source. All containers used must allow for water to drain away as ice melts (like an insulated cooler with drain plug). Keep enough ice available to keep the food surrounded by ice for the duration of the operation.

Date Marking Date-mark ready-to-eat potentially hazardous foods that will be kept longer than 24 hours at 41°F with a date to discard at 7 days from the day of preparation.

Thawing Foods Foods may be thawed under refrigeration, under cool running water, or in a microwave if it will be cooked immediately.

Cooling The best way to keep food safe is to make it fresh each day, just before you serve it. If you have food that is leftover or made in advance, you must cool it from 135°F to 70°F within two hours. Then the food must cool from 70°F to 41°F within four hours. If the food does not reach 70°F within two hours, you must reheat the food to 165°F, and start the cooling process again or you may serve it immediately or hot hold the food until service. If the food takes longer than four hours to drop from 70°F to 41°F, it must be discarded. Refer to the food handler manual for more information or look online at: www.healthoregon.org/foodsafety.

Cooking Cook raw animal products to the following internal temperatures (Sections 3-401.11 thru 3-401.13):

- Ground beef and other ground meats to 155°F
- Pork, eggs, fish and other potentially hazardous foods 145°F

A consumer advisory will be required for facilities that serve raw or under cooked animal

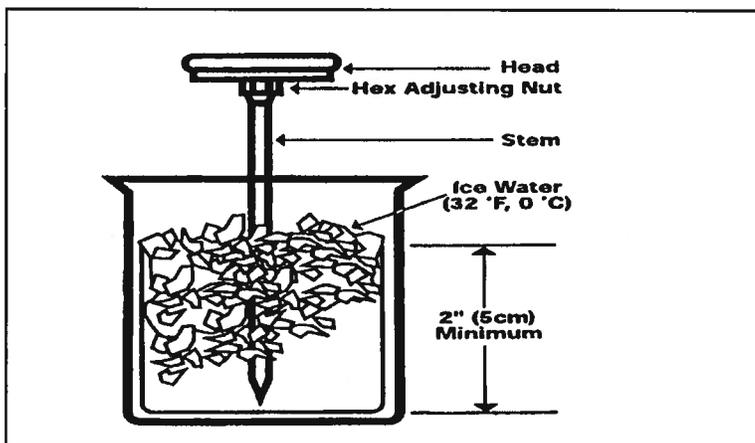
products, such as “burgers cooked to order”.

Reheating All potentially hazardous foods that have been cooked and cooled must be reheated to at least 165°F within two hours before being placed in hot holding (Section 3-403.11).

Thermometers

Metal-stem probe food thermometers with a temperature range of 0°F to 220°F are required to test food temperatures when holding foods hot, cold or when cooking raw animal products. Clean and sanitize your thermometer after each use (Sections 4-203.11; 4-502.11). A small diameter probe is required to measure the temperature of thin foods, such as burgers and fish fillets.

It is important to ensure that the thermometer is working properly. An easy way to check your thermometer is to pack a container with crushed ice and add enough water to make it slushy. Put the thermometer into the slush and wait for 30 seconds until the dial stops moving. The dial should read 32°F. If it has a different reading, adjust the hex nut keeping the probe in the slush until it reads 32°F. For digital thermometers, follow manufacturer instructions on how to adjust the thermometer.



Refrigerator thermometers are required to confirm that the refrigerator or cooler is staying cold at 41°F (Section 4-204.112).

Dishwashing

A commercial dishwasher or a three-compartment sink are used to wash, rinse, and sanitize all equipment and utensils. Using a three-compartment sink, wash equipment and utensils with soapy hot water, rinse with hot water, immerse in sanitizer and air dry. Sanitizer can be made up of 50-100 ppm of chlorine bleach or 200 ppm of quaternary ammonium. Use test strips that are made for the sanitizer that you are using. The test strips will ensure that the sanitizer has been mixed according to manufacturer's directions (Chapter 4).

For units that do not have a dishwashing, you must bring multiple clean utensils to replace any that have been in use for four hours or utensils that have been dropped or contaminated.

Cleaning and Sanitizing

Clean and sanitize food-contact surfaces between preparing raw and ready-to-eat foods. Food contact surfaces must be washed, rinsed, and sanitized as with dishwashing. Wiping cloths must be stored in a sanitizing solution between uses. Wipe cloths used for wiping areas that contacted raw animal products must be stored in a container of sanitizer separate from all other sanitizers (Section 3-304.14).

General Food Protection

- Store food and utensils up off the floor. Store food only in food grade containers. Protect food and utensils from dust and other contaminants (Sections 3-305.11; 4-1)
- Store chemicals such as liquid bleach and detergents below and separate from the food and utensils. Properly label all chemical containers (Section 7-2)
- Keep all garbage in a watertight container with lid (Section 5-5)
- Dispose of wastewater properly into a plumbed sewer (Section 5-4)
- Protect food from insects and rodents (Sections 6-202.15; 6-501.111)

Sherri Marineau

From: Janet Webster
Sent: Monday, March 22, 2021 9:58 AM
To: Public comment
Subject: Comments on food carts for the March 22 Work Session

[WARNING] This message comes from an external organization. Be careful of embedded links.

March 22, 2021
RE: Discussion on Redrafting Food Cart Regulations

Dear Planning Commission,

A revision of Newport’s food cart regulations is overdue. The current regulations were drafted to address a specific situation and do not resonate with the current environment. During this past year, many residents and visitors would have welcomed more options to eat outdoors. Food carts present a simple way to accommodate social distancing while providing a variety of food at affordable prices.

Private property owners should be allowed to have food carts on their property if properly zoned and health standards maintained. This is almost impossible in most of Newport given the half mile restriction. “Permanent eating and drinking establishment” is not defined in the code. We have explored having a food cart pod on property we own across from the high school. This location would give students and teachers food options without driving or leaving the area. We are currently prohibited from moving forward on this due to the half mile restriction and the 500 foot restriction from a secondary school.

Too often, the City plans for tourists rather than considering the daily needs of residents. Food carts offer an alternative to chain fast food restaurants. They can be a way for a local entrepreneur to incubate a business. Locating them in areas that locals will use may alleviate the perception of competition with existing restaurants. Competition can be healthy as local people will go where the food is good and affordable.

I encourage you to look beyond simply identifying additional public right-of-ways and public property in high traffic areas. Consider what locals may want and what would add to the overall quality of life in Newport. I suggest starting over when drafting regulations as many cities have addressed the food cart issue and may have model ordinances that would work for Newport.

Sincerely,
Janet Webster
Newport, OR

Memorandum

To: Planning Commission/Commission Advisory Committee
From: Derrick I. Tokos, AICP, Community Development Director 
Date: March 18, 2021
Re: Results of Transportation System Plan Regulatory Review (Tech Memo #3)

City staff and the consulting team will soon be working in earnest on updates to Newport's transportation development standards. It will be one of the agenda items for the May 3, 2021 joint meeting between the Planning Commission and City Council and will be worked, in some fashion, into the next round of public outreach in late May.

Enclosed is a memo that was prepared earlier in the TSP process by Angelo Planning Group. It is a regulatory review of the City's existing standards for compliance with Statewide Planning goal 12 and applicable Oregon Administrative Rules. The document begins to frame the scope and nature of transportation related code amendments we will be making, and I'd like to take a few minutes to review the document with you at this work session. I'll also be prepared to answer questions. Planning Commission and Commission advisory Committee review of an initial draft of the proposed amendments is tentatively set for the April 26, 2021 work session.

Attachments

Newport Transportation System Plan Update - Regulatory Review (Tech Memo #3)

MEMORANDUM

DATE: October 10, 2019

TO: Newport TSP Project Management Team

FROM: Andrew Parish, Kyra Haggart and Darci Rudzinski, APG

SUBJECT: Newport Transportation System Plan Update
Technical Memo 3 – Regulatory Review

The City of Newport is undertaking an update of the City of Newport Transportation System Plan (TSP) consistent with the requirements of Statewide Planning Goal 12 - Transportation. The Transportation Planning Rule (TPR), Oregon Administrative Rule 660 Division 12, implements Goal 12. The TPR defines the necessary elements of a local Transportation System Plan (TSP) and how Goal 12 should be implemented locally. The overall purpose of the TPR is to provide and encourage a safe, convenient, and economical transportation system. The Rule also implements provisions of other statewide planning goals related to transportation planning in order to plan and develop transportation facilities and services in close coordination with urban and rural development. The TPR directs jurisdictions to integrate comprehensive land use planning with transportation needs and to promote multi-modal systems that make it more convenient for people to walk, bicycle, use transit, and drive less. Newport's TSP must be consistent with the current TPR, which was amended most recently in December 2011.

The TPR requires cities to prepare local TSPs that are consistent with the Oregon Transportation Plan (OTP); Technical Memorandum #2 (Plan Review Summary) addresses the OTP and other background documents that will be referenced in updating the Newport TSP. This memorandum will focus on the extent to which the City's policy and development requirements meet the requirements of TPR.



Newport Comprehensive Plan

Pursuant to the TPR, cities are required to adopt a local TSP as part of their comprehensive plans. The 1999 Newport TSP and its 2008 and 2012 amendments were adopted as part of the Newport Comprehensive Plan's Public Facilities Chapter (Chapter 5).

Comprehensive Plan Goals and Objectives related to transportation are found within the adopted TSP, and are "intended to guide the decision makers and the development community in the administration of the TSP and the development of applicable implementing ordinances consistent with the TSP. This section is not intended to provide review criteria for specific projects or to function as a capital improvement plan."

The City's transportation policies will need to be reviewed and revised to be consistent with the goals and objectives of this TSP update and its ensuing recommendations.

What this means for the Newport TSP Update: The TSP update process will provide an opportunity to review and update the Comprehensive Plan transportation element and other transportation policies, to better represent current state and local practices and objectives. Potential policy changes may reflect issues that have been evolving since the TSP was last updated, such as strategies to optimize transportation management and maximizing the efficiency of the existing transportation system, integrating alternative transportation options, balancing modal capacity of facilities, and the role the transportation system plays in human health. Towards the end of the planning process, when solutions have been identified to satisfy future needs, policy statements will be developed to help implement TSP recommendations. Updated policy statements may augment or replace adopted comprehensive plan transportation policies and will help guide future actions, including land use decisions, after the TSP is adopted. The City will amend the comprehensive plan transportation policies in adherence to Goal 12 in the updated TSP document.



Newport Land Division and Development Regulations

The Newport Municipal Code contains Title XIII Land Division and Title XIV Zoning, which together control the process of land development within the City. The City's Land Division Ordinance and Zoning Ordinance include standards for land uses, dimensions of parcels and roadways, parking and access regulations, application procedures, and other important information relevant to creating and maintaining a functioning transportation system. The TPR requires that the City evaluate development applications for their effect on the transportation system, and that the City requires consistency with its TSP from developments.

What this means for the Newport TSP Update: The TSP update will revisit transportation standards, such as those related to street functional classifications, street cross-sections, and mobility and access management. Where modifications are proposed to these standards, the City development requirements will need to be updated for consistency with the updated TSP. In addition, the Land Division Ordinance contains a number of other transportation-related development requirements (e.g., vehicular and bicycle parking, pedestrian access). Amendments to these development requirements may be needed in order to implement the recommendations of the updated TSP and to better comply with the TPR.

Table 1 describes how City land division, zoning, and development requirements meet specific TPR requirements and identifies recommended improvements where local requirements could be strengthened or modified to be more consistent with the TPR. Suggested draft code language will be prepared at the implementation phase of the TSP update that supports the policies and recommendations of the draft TSP and ensures consistency with the TPR.



Table I. TPR Requirements and Recommendations for the Newport Development Code

TPR Requirement	Municipal Code References and Recommendations
<p>OAR 660-012-0045 – Implementation of the Transportation System Plan</p>	
<p>(1) Each local government shall amend its land use regulations to implement the TSP.</p>	
<p><i>(a) The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the TSP and, under ordinary circumstances do not have a significant impact on land use:</i></p> <p style="padding-left: 40px;"><i>(A) Operation, maintenance, and repair of existing transportation facilities identified in the TSP, such as road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals;</i></p> <p style="padding-left: 40px;"><i>(B) Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;</i></p> <p style="padding-left: 40px;"><i>(C) Uses permitted outright under ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n), consistent with the provisions of 660-012-0065; and</i></p> <p style="padding-left: 40px;"><i>(D) Changes in the frequency of transit, rail and airport services.</i></p> <p><i>(b) To the extent, if any, that a transportation facility, service, or improvement concerns the application of a comprehensive plan provision or land use regulation, it may be allowed without further land use review if it is permitted outright or if it is subject to standards that do not require interpretation or the exercise of factual, policy or legal judgment.</i></p>	<p>The Newport Zoning Ordinance includes transportation facilities as “Institutional and Civic Uses” – either “Basic Utilities or Roads” or “Utility, Road, and Transit Corridors.” (14.03.060.E Commercial and Industrial Districts – Institutional and Civic Use Categories). Basic Utilities and Roads are permitted in all commercial and industrial districts, and Utility, Road, and Transit Corridors are conditional uses. Port facilities are permitted in the W-1 and W-2 zones. Trails, paths, bike paths, walkways, etc. are permitted in Public (P-1, P2, and P-3) land use classifications.</p> <p>Recommendation: Consider consolidating transportation facilities from these various definitions and locations. This could be accomplished by adding “Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)” as a permitted use in all land use districts. Alternatively, add “Basic Utilities or Roads” as an allowed use in other zoning districts.</p>
<p><i>(c) In the event that a transportation facility, service or improvement is determined to have a significant impact on land use or requires interpretation or the exercise of factual, policy or legal judgment, the local government shall provide a review and approval process that is consistent with 660-012-0050. To facilitate implementation of the TSP, each local government shall amend regulations to provide for consolidated review of land use decisions required to permit a transportation project.</i></p>	<p>TPR Section -0050 addresses project development and implementation - how a transportation facility or improvement authorized in a TSP is designed and constructed. Project development may or may not require land use decision-making. The TPR directs that during project development, projects authorized in an acknowledged TSP will not be subject to further justification with regard to their need,</p>



TPR Requirement	Municipal Code References and Recommendations
	<p>mode, function, or general location. To this end, the TPR calls for consolidated review of land use decisions and proper noticing requirements for affected transportation facilities and service providers.</p> <p>The City allows for consolidated review of multiple land use or development permits under Development Code Section 14.52.130 – Consolidated Procedure, stating that "Any applicant for a land use action may apply at one time for all related land use actions."</p> <p>Chapter 14.45 – Traffic Impact Analysis states that a TIA shall be submitted "To determine whether a significant effect on the transportation system would result from a proposed amendment to the Newport Comprehensive Plan or to a land use regulation, as specified in OAR 660-012-0060," among other situations.</p> <p>This TPR provision is met</p>
<p>(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities corridors and sites for their identified functions. Such regulations shall include:</p>	
<p><i>(a) Access control measures, for example, driveway and public road spacing, median control and signal spacing standards, which are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities;</i></p>	<p>Chapter 14.14 addresses Parking, Loading, and Access Requirements, and requires spacing of driveway access onto Arterial streets of 500 feet, "where practical" (14.14.120.E). Access spacing standards for roadways and intersections are not provided.</p> <p>The Land Division Ordinance contains block regulations (13.05.020) limiting block size to 1,000 feet in length but does not describe access control measures.</p> <p>Chapter 14.44.050.E – Transportation Standards states that (the location, width, and grade of all streets shall conform to the</p>



TPR Requirement	Municipal Code References and Recommendations
	<p>Transportation System Plan, Subdivision plan, or street plan, as applicable...”</p> <p>Recommendation: Update Title 13 and/or Title 14 to include access control measures that are consistent with the functional classification system recommended by the TSP update. Whether spacing standards are ultimately located within the development code or are referenced in the TSP will be discussed in the implementation phase of this process.</p>
<p><i>(b) Standards to protect the future operations of roads, transitways and major transit corridors</i></p>	<p>Chapter 14.45 addresses Transportation Impact Analysis (TIA) regulations. A TIA is required in cases of amendments to the comprehensive plan or land use regulation, as specified in OAR 660-012-0060; as required by ODOT in conjunction with an approach road permit; when a proposal may generate 100 or greater PM peak-hour trips; when a proposal may increase adjacent street use by heavy vehicles by 10 trips a day or more; or when the proposal utilizes Trip Reserve Funds to meet the requirements of the South Beach Transportation Overlay Zone (Chapter 14.43).</p> <p>This TIA is intended to ensure that operations of transportation facilities is maintained through individual land use decisions.</p> <p>14.45.070 provides a fee in lieu requirement for certain situations.</p> <p>Recommendation: This TPR provision is met. However, the TSP update provides an ideal opportunity to revisit the thresholds that trigger a TIA, as well as the process and requirements. Any recommended changes resulting from this</p>



TPR Requirement	Municipal Code References and Recommendations
	review may necessitate updates to Chapter 14.45.
<p><i>(c) Measures to protect public use airports by controlling land uses within airport noise corridors and imaginary surfaces, and by limiting physical hazards to air navigation;</i></p>	<p>Chapter 14.22 – Airport Restricted Area establishes zones that regulate allowed height, electrical interference, noise, and other issues through standard airport-related imaginary surfaces.</p> <p>This TPR provision is met.</p>
<p><i>(d) A process for coordinated review of future land use decisions affecting transportation facilities, corridors or sites;</i></p>	<p>See response to -0045(1)(c).</p> <p>This TPR provision is met.</p>
<p><i>(e) A process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities, corridors or sites;</i></p>	<p>This section is implemented by section 14.45 (Traffic Impact Analysis), 14.34 (Conditional Uses), and 14.44 (Transportation Standards).</p> <p>Section 14.45 establishes the standards for when a proposal must be reviewed for potential traffic impacts, when a TIA must be submitted with a development application, the study area, and who is qualified to prepare the analysis.</p> <p>14.45.060 states that “The city may deny, approve, or approve a development proposal with conditions needed to meet operations, structural, and safety standards and provide the necessary right-of-way and improvements to ensure consistency with the city’s Transportation System Plan.”</p> <p>This TPR provision is met. The provisions of these sections will be revisited to ensure compliance with the updated TSP.</p>
<p><i>(f) Regulations to provide notice to public agencies providing transportation facilities and services, MPOs, and ODOT of:</i></p> <ul style="list-style-type: none"> <i>(A) Land use applications that require public hearings;</i> <i>(B) Subdivision and partition applications;</i> 	<p>Notice requirements are detailed in Section 14.52.060 and include “any affected public agency or public/private utility” in the list of those who shall receive notice.</p>



TPR Requirement	Municipal Code References and Recommendations
<p><i>(C) Other applications which affect private access to roads; and</i> <i>(D) Other applications within airport noise corridor and imaginary surfaces which affect airport operations.</i></p>	<p>Subdivision Ordinance notice requirements are in Section 13.05.075 Preliminary Review and Notice of Hearing and require that the Community Development Director provide notice to “other agencies known to be affected or to have an interest.”</p> <p>Recommendation:</p> <p>Add specific language for Type III and Type IV applications requiring transportation providers, including ODOT, Lincoln County Transit, and the Newport Municipal Airport, be notified of proposals that may impact their facilities or services.</p>
<p><i>(g) Regulations assuring amendments to land use designations, densities, and design standards are consistent with the functions, capacities and performance standards of facilities identified in the TSP.</i></p>	<p>Section 14.45.050.C requires “where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect an existing or planned transportation facility, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of OAR 660- 012-0060.”</p> <p>This TPR provision is met.</p>
<p>(3) Local governments shall adopt land use or subdivision regulations for urban areas and rural communities as set forth below.</p>	
<p><i>(a) Bicycle parking facilities as part of new multi-family residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots.</i></p>	<p>Bicycle parking is addressed in Section 14.14.070. Bicycle parking facilities are required as part of new multifamily residential developments of 4 units or more, as well as new retail, office, and institutional developments. The amount of bicycle parking required depends on the number of required vehicle parking spaces.</p> <p>Recommendation:</p> <p>As appropriate, consider adding transit transfer stations and park-and-ride lots to the facilities which require bicycle parking. Also consider referencing the Lincoln County</p>



TPR Requirement	Municipal Code References and Recommendations
<p><i>(b) On-site facilities shall be provided which accommodate safe and convenient pedestrian and bicycle access from within new subdivisions, multi-family developments, planned developments, shopping centers, and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Single-family residential developments shall generally include streets and accessways. Pedestrian circulation through parking lots should generally be provided in the form of accessways.</i></p> <p><i>(A) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;</i></p> <p><i>(B) Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along arterials, collectors and most local streets in urban areas except that sidewalks are not required along controlled access roadways, such as freeways;</i></p> <p><i>(C) Cul-de-sacs and other dead-end streets may be used as part of a development plan, consistent with the purposes set forth in this section;</i></p> <p><i>(D) Local governments shall establish their own standards or criteria for providing streets and accessways consistent with the purposes of this section. Such measures may include but are not limited to: standards for spacing of streets or accessways; and standards for excessive out-of-direction travel;</i></p> <p><i>(E) Streets and accessways need not be required where one or more of the following conditions exist:</i></p> <p><i>(i) Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;</i></p> <p><i>(ii) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or</i></p>	<p>Transit Development Plan within the development code.</p> <p>On-site circulation and connections: Circulation diagrams are a required part of a Planned Development application (14.35.60.9.b), showing the movement of vehicles, goods, bicycles, and pedestrians within the planned development. However, requirements related to on-site circulation and connections to nearby activity centers for non-motorized modes of transportation are not addressed in either the Zoning or the Land Division Ordinance.</p> <p>Parking Lots: Chapter 14.14 addresses parking, loading, and access requirements. Pedestrian and/or bicycle circulation through parking lots are not addressed.</p> <p>Bikeways and sidewalks: Street standards in the Land Division Ordinance (13.05.015) state that sidewalks are required. Cross-sections and other standards for roadways are not included or referenced in either Title 13 or Title 14.</p> <p>Street and accessway layout: Section 13.05.020 establishes block sizes for subdivisions. Block length is restricted to 1,000', and a pedestrian or bicycle way may be required if block length exceeds that figure.</p> <p>Cul-de-sacs: Cul-de-sacs may be required to include pedestrian accessways. They are also limited to a length of 400 feet (13.05.015.I).</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Amend Title 13 and Title 14 to include language related to on-site circulation and connections, and



TPR Requirement	Municipal Code References and Recommendations
<p><i>(iii) Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.</i></p>	<p>pedestrian access through parking lots.</p> <ul style="list-style-type: none"> • Include references in Title 13 and Title 14 to adopted street standards in the updated TSP. Street standards will need to comply with the bikeway requirements within the TPR. • Evaluate the 1,000' block length and accessway requirements as part of the TSP update.
<p><i>(c) Off-site road improvements are otherwise required as a condition of development approval, they shall include facilities accommodating convenient pedestrian and bicycle and pedestrian travel, including bicycle ways on arterials and major collectors</i></p>	<p>Section 14.45.060 states that the City may condition development to “provide the necessary right-of-way and improvements to ensure consistency with the City’s Transportation System Plan.”</p> <p>Recommendation: Add specific language stating that the City may require off-site improvements proportionate to the impacts of proposed development and that conditioned improvements may include facilities accommodating convenient pedestrian and bicycle travel, consistent with the TSP. Proposed code modifications would suggest what type of findings are necessary to require such off-site improvements.</p>
<p><i>(d) For purposes of subsection (b) “safe and convenient” means bicycle and pedestrian routes, facilities and improvements which:</i></p> <p><i>(A) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;</i></p> <p><i>(B) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and</i></p>	<p>Adopted City development requirements do not contain language requiring “safe and convenient” bicycle and pedestrian routes.</p> <p>Recommendation: Address TPR requirements related to bicycle and pedestrian access and mobility through the addition of a new Pedestrian Access and Circulation section in the Land Division Ordinance. Review the applicability of proposed new requirements for all future subdivisions.</p>



TPR Requirement	Municipal Code References and Recommendations
<p><i>(C) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile.</i></p>	
<p><i>(e) Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.</i></p>	<p>The City currently does not have requirements related to non-motorized circulation internal to office park and commercial development.</p> <p><u>Recommendation:</u> See recommendation above.</p>
<p>(4) To support transit in urban areas containing a population greater than 25,000, where the area is already served by a public transit system or where determination has been made that a public transit system is feasible, local governments shall adopt land use and subdivisions as provided in (a)-(g) below.</p>	
<p><i>(a) Transit routes and transit facilities shall be designed to support transit use through provision of bus stops, pullouts and shelters, optimum road geometrics, on-road parking restrictions and similar facilities, as appropriate</i></p>	<p>The City of Newport does not have a population greater than 25,000. However, the community is currently served by Lincoln County Transit and the updated TSP will address existing and future transit facilities and services.</p> <p><u>Recommendation:</u> The TSP update planning process will identify transit routes and ensure that roadway design requirements will accommodate service on existing and planned routes. Depending on the draft TSP recommendations, update development requirements as necessary to address the provision of transit amenities. Additionally, add standards to subdivision regulations and infill development requirements (NMC 14.44) to require transit-supporting amenities consistent with the adopted Lincoln County Transit Development Plan.</p>
<p><i>(b) New retail, office and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the measures listed in (A) and (B) below.</i></p>	<p>Access to transit is not currently addressed by the TSP.</p>



TPR Requirement	Municipal Code References and Recommendations
<p><i>(A) Walkways shall be provided connecting building entrances and streets adjoining the site;</i></p> <p><i>(B) Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable. Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways about the property. Where adjacent properties are undeveloped or have potential for redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension to the adjoining property;</i></p> <p><i>(C) In addition to (A) and (B) above, on sites at major transit stops provide the following:</i></p> <p><i>(i) Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or street intersection;</i></p> <p><i>(ii) A reasonably direct pedestrian connection between the transit stop and building entrances on the site</i></p> <p><i>(iii) A transit passenger landing pad accessible to disabled persons</i></p> <p><i>(iv) An easement or dedication for a passenger shelter if requested by the transit provide; and</i></p> <p><i>(v) Lighting at the transit stop.</i></p>	<p>Recommendation: See response to - 0045(4)(a).</p>
<p><i>(c) Local governments may implement 4(b)A) and (B) above through the designation of pedestrian districts and adoption of appropriate implementing measures regulating development within pedestrian districts. Pedestrian districts must comply with the requirement of (4)(b)(C) above.</i></p>	<p>The City can also meet the requirements of the TPR related to pedestrian connections to transit (TPR -0045(4)(b)(A) and (B)) by adopting appropriate implementing measures within a designated pedestrian district. The City of Newport currently does not have pedestrian district designations.</p> <p>Recommendation: For the approach offered by TPR -0045(4)(c), the City would need to consider designating pedestrian districts and developing specific code language to address, among other things, “major transit stops,” as defined through the TSP update.</p>
<p><i>(d) Designated employee parking areas in new developments shall provide preferential parking for carpools and vanpools</i></p>	<p>Chapter 14.14 addresses parking and loading generally. Employee parking areas and preferential parking for carpools and vanpools are not addressed.</p>



TPR Requirement	Municipal Code References and Recommendations
	<p>Recommendation: The City should consider requiring that new developments with planned designated employee parking areas provide preferential parking for employee carpools and vanpools. A typical local code requirement is requiring employers with more than a specific number of employees, or developments where required parking spaces exceed a specific number, to dedicate a percentage of the required parking spaces for car/vanpools.</p>
<p><i>(6) In developing a bicycle and pedestrian circulation plan as required by 660-012-0020(2)(d), local governments shall identify improvements to facilitate bicycle and pedestrian trips to meet local travel needs in developed areas. Appropriate improvements should provide for more direct, convenient and safer bicycle or pedestrian travel within and between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops). Specific measures include, for example, constructing walkways between cul-de-sacs and adjacent roads, providing walkways between buildings, and providing direct access between adjacent uses.</i></p>	<p>The TSP update is expected to include a considerable update to the City’s bicycle and pedestrian circulation plan, consistent with TPR -0020. This TPR requirement is currently implemented in City requirements as follows.</p> <ul style="list-style-type: none"> • Walkways between cul-de-sacs and adjacent roads – See response and recommendations related to cul-de-sacs, Section -0045(3)(b). • Walkways between buildings – See response and recommendations related to accessways, Section -0045(3)(b). • Access between adjacent uses – See response and recommendations related to accessways, Section -0045(3)(b). <p>Recommendation: This requirement will be addressed by the TSP update planning process and can be implemented locally by requiring improvements in developing areas consistent with adopted code provisions.</p>
<p><i>(7) Local governments shall establish standards for local streets and accessways that minimize pavement width and total ROW consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land,</i></p>	<p>The Land Division Ordinance defers to the adopted TSP for roadway and right-of-way widths but sets the minimum standards in Section 13.05.015.B. Public improvement requirements for streets are listed in Section 13.05.040.A.1, where street widths are set at 36’ (improved).</p>



TPR Requirement	Municipal Code References and Recommendations
<p><i>provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Notwithstanding section (1) or (3) of this rule, local street standards adopted to meet this requirement need not be adopted as land use regulations.</i></p>	<p>This standard for a local street is wider than recommended widths illustrated in the Transportation Growth Management Neighborhood Street Design Guidelines (listed below).</p> <p><u>Recommendation:</u> The TSP update process provides the City with the opportunity to evaluate local streets standards to determine if modifications need to be made to both meet the current and future needs of the community and implement this TPR requirement.</p>
<p>OAR 660-12-0060</p>	
<p><i>Amendments to functional plans, acknowledged comprehensive plans, and land use regulations that significantly affect an existing or planned transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility.</i></p>	<p>TPR compliance is addressed in Section 14.45 Traffic Impact Analysis, which requires a “significant effect” determination for proposed amendments to the Newport Comprehensive Plan or land use regulations and, consistent with TPR -0060, that the proposed changes are consistent with the “identified function, capacity, and performance standards” of the impacted facility.</p> <p>This TPR provision is met.</p>

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)



January 11, 2021 Work Session

- Initial Review of Land Use Code Amendments to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards (Carried over from 12-13-20 work session).

January 11, 2021 Regular Session

- Organizational Meeting (Elect Chair and Vice-Chair)

January 25, 2021 Work Session

- Discuss Central Lincoln PUD Comments on City's Draft Small Cell Wireless ROW Regulations
- File 5-Z-20 Second Review of Adjustments to Large Wireless and Other Telecommunications Land Use Standards. Will include Provisions for Small Wireless Facilities Outside of the Right-of-Way

January 25, 2021 Regular Session

- File 5-Z-20 Initiate Large Wireless and Other Telecommunications Land Use Standard Legislative Amendments. Will include Provisions for Small Wireless Facilities Outside of the Right-of-Way

February 8, 2021 Work Session

- File 1-CP-17, Review Results from Nov/Jan TSP Outreach, Next Steps
- Second Review of Land Use Code Amendments to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards
- Goal Setting Discussion for FY 2021/2022

February 8, 2021 Regular Session

- Initiate Legislative Process to Amend Land Use Regulations to Implement HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

February 22, 2021 Work Session (Cancelled)

February 22, 2021 Regular Session

- Hearing File 1-SV-21, Vacate a Portion of SW 2nd Street between SW Angle and US 101 (continued to 3/8)

March 8, 2021 Work Session

- Review Council Goals for FY 2021 / 2022
- Concepts for Distribution of Affordable Housing CET Funds

March 8, 2021 Regular Session

- Continued Hearing File 1-SV-21, Vacate a Portion of SW 2nd St between SW Angle and US 101

March 22, 2021 Work Session

- Results of Transportation System Plan Regulatory Review (Tech Memo #3)
- Initial Discussion about Code Options for Lifting Restrictions on the Operation of Food Carts (Council Goal)
- Citizen Proposal to Amend W-2 Zoning to Allow Personal Service Uses (e.g. Real Estate Offices) Subject to Conditional Use Approval

March 22, 2021 Regular Session

- Hearing on File 5-Z-20, Amending NMC Chapter 14 for Large Wireless and Other Telecommunications Land Use Standards, including provisions for small wireless outside ROWs (firm)

Tentative Planning Commission Work Program

(Scheduling and timing of agenda items is subject to change)



April 12, 2021

Work Session

- Yaquina Bay Estuary Management Plan Update (Presentation/Discussion)
- Review Initial Draft of Code Amendments Related to Operation of Food Carts

April 12, 2021

Regular Session

- Hearing on File 4-Z-20 Implementing HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

April 26, 2021

Work Session

- Overview of Upcoming May Prioritization Round of TSP Outreach
- Initial Review of Draft Revisions to Transportation Standards in NMC Chapters 13 and 14 Related to Transportation System Plan Update

April 26, 2021

Regular Session

- Design Review Hearing on Hallmark's Whaler Motel Expansion (Placeholder)
- Reserve for Second Hearing on HB 2001 Duplex, Townhouse, and Cottage Cluster Standards

May 3, 2021

Special Joint Commission/City Council Work Session

- Transportation System Plan Project Prioritization, Transportation Standards, 2nd Round Public Outreach

May 10, 2021

Work Session/Regular Session Cancelled

May 24, 2021

Work Session

- Status Update SB / US 101 Corridor Refinement Plan
- Review DLCDCity Evaluation of Beach Access Points Prioritized for Resiliency Retrofit
- Second Review of Draft Code Amendments Related to Food Carts

May 24, 2021

Regular Session

- Initiate Legislative Process to Amend the Newport Zoning Ordinance Related to Food Cart

June 14, 2021

Work Session

- Second Review of Draft Revisions to Transportation Standards in NMC Chapters 13 and 14 Related to Transportation System Plan Update
- Review TGM Grant Application to Update Land Use Regulations along US 101/20 Corridor and Develop Business Façade Improvement Program to Complement Recommendations in the TSP (App Due in July)
- Land Use, Building, and Urban Renewal Bill Summary from 2021 Legislative Session (may bump to July)

June 14, 2021

Regular Session

- TBD

June 28, 2021

Work Session/Regular Session Cancelled