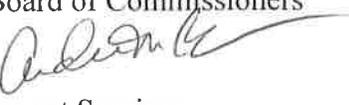




April 24, 2018

To: Washington County Board of Commissioners

From: Andy Back, Manager   
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 831 - An Ordinance Amending the Community Development Code, an Element of the Comprehensive Plan, Relating to Mobile Food Units**

## STAFF REPORT

For the May 1, 2018 Board of Commissioners Meeting

### I. STAFF RECOMMENDATION

Conduct the public hearing for Ordinance No. 831. At the conclusion of the hearing, order engrossment of the ordinance to include an amendment recommended by staff to allow portable storage facilities on small mobile food sites, as described in the staff report. Deliberate and provide direction on potential additional engrossment to include Planning Commission recommendation to allow mobile food units on unpaved (gravel or landscaped) surfaces.

Continue the hearing for the engrossed ordinance to June 5 and June 26, 2018, and direct staff to prepare and mail notice of the amendments consistent with requirements of Chapter X of the County Charter.

### II. PLANNING COMMISSION RECOMMENDATION

At its April 4, 2018, public hearing for Ordinance No. 831, the Planning Commission (PC) voted 5 to 0, to recommend that the Board adopt Ordinance No. 831, with an amendment to allow mobile food units on pavement, gravel, or landscaped surfaces. PC Deliberations are included as Attachment A.

### III. OVERVIEW

Ordinance No. 831 proposes amendments to the Community Development Code (CDC) related to mobile food units (“food carts” or “food trucks”), mobile food sites (“food cart pods”) and the locations where such developments may be allowed. Specifically, the amendments would:

- Establish mobile food sites as an allowed use in specific land use districts in unincorporated Washington County.
- Exempt sites hosting mobile food units for 12 hours or less within a 24-hour period from permit requirements in nonresidential districts, provided certain site standards are met.
- Require a Type I Temporary Use process for approval of small mobile food sites. A small mobile food site has no more than eight mobile food units located on a previously developed site, without buildings or structures (except tents and canopies).
- Exempt Type I Temporary Uses from the provisions of CDC Section 501 (Public Facility and Service Requirements).
- Require a Type II Special Use (SU) process for approval of large mobile food sites. A large mobile food site meets one or more of the following: nine or more mobile food units, is not located on a developed site, provides drive-thru service, and/or contains buildings and/or structures.

#### **IV. BACKGROUND**

Mobile food units are small businesses serving food from a truck, trailer or pushcart. Once limited to businesses serving ice cream or tacos, this fast-growing economic sector now includes all manner of cuisines and beverages. Their mobile nature and the need for relatively low capital investments make it easier for entrepreneurs with relatively small investments to enter and test different markets as they become established.

At present, the CDC does not acknowledge or regulate a mobile food unit (MFU) as a separate and distinct land use from a permanent brick-and-mortar restaurant. Lacking regulations specific to MFUs, the County only allows for these mobile micro-restaurants through the same process, standards and fees that apply to larger eating and drinking establishments located in permanent buildings. The existing CDC standards applicable to eating and drinking establishments may be a poor fit with the often temporary and ad hoc nature of sites hosting MFUs. As a result, many business owners have either abandoned their efforts to operate MFUs or are operating outside of the land use process.

##### ***Terminology and Oregon Health Authority Rules***

For purposes of inclusiveness, clarity and consistency with Oregon Administrative Rule (OAR) terminology, Ordinance No. 831 utilizes the term *mobile food unit* rather than “food cart” or “food truck.” Oregon Health Authority (OHA) rules define a MFU 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” (OAR 333-162-000). Operating individually or in groups, it is their mobility and small size that distinguishes them from brick-and-mortar restaurants.

Under OHA rules, MFUs must comply with the following criteria to maintain their status as a mobile business:

- MFUs shall remain mobile at all times during operation. Tongues may be removed from trailers, but wheels must be mounted and operational at all times (OAR 333-162-0030).
- All operations and equipment must be integral to the MFU. The only exceptions are for barbeques, customer seating and auxiliary storage (OAR 333-162-0020).
- MFUs must operate from a licensed restaurant, commissary, or warehouse. Licensing authorities can waive this requirement if the MFU is found capable of operating without a base of operation, by including all equipment and utensils that a commissary would provide (OAR 333-162-0040).

OHA rules require active MFUs to obtain a mobile food license from the county in which they are based. About 100 mobile food licenses have been issued by Washington County Environmental Health for MFUs operating in both the incorporated and unincorporated areas of the county. While hard data are not readily available, the majority of these businesses are likely operating within urbanized portions of Washington County. By comparison, there are about 800 licensed units within the city of Portland.

***Issue Paper No. 2017-02: Food Carts in Unincorporated Washington County***

In response to public inquiries and staff concerns regarding the lack of MFU regulations in the CDC, the Board directed staff to prepare an issue paper as part of the 2016 Long Range Planning (LRP) Work Program (Task 1.33). The result was [Issue Paper 2017-02: Food Carts in Unincorporated Washington County](#), which outlined the potential benefits and impacts of mobile food sites, surveyed the regional regulatory landscape and made recommendations regarding possible CDC amendments. These recommendations addressed some or all of the following elements:

- Limit the allowance of MFUs to developed sites in specified land use districts;
- Allow MFUs as a renewable temporary use, similar to farmers markets and mini farmers markets;
- Use a tiered-review process to account for the number of MFUs approved for a site and the length of their stay; and
- Create MFU development standards to address issues of sanitation, safety, public health and neighborhood compatibility.

The issue paper was presented Jan. 24, 2017, to the Planning Commission (PC) and to the Board at its Feb. 14, 2017, work session. Based on the recommendations included in the issue paper, the Board directed development of an ordinance as part of the adopted 2017 LRP Work Program (Task 1.26).

***Ordinance Development***

Staff began development of ordinance language in 2017. Ordinance content was informed by outreach to the American Planning Association, affected County departments, planning staff at regional counties and cities, Clean Water Services, Tualatin Valley Fire & Rescue, Oregon Liquor Control Commission and Department of Environmental Quality. In addition, staff interviewed three mobile food site operators with locations in Aloha, Portland, Milwaukie and Happy Valley.

A preliminary draft of the proposed amendments was presented to the Planning Commission at its Oct. 4 and Nov. 1, 2017, meetings.

### ***Ordinance Notification***

Notice 2018-01 regarding proposed Ordinance No. 831 was mailed March 9, 2018, to about 400 parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the PC at that time. A display advertisement regarding the ordinance was published March 16, 2018, in *The Oregonian* newspaper.

## **V. ANALYSIS**

The proposed CDC amendments are shown in Exhibit 1 of the filed ordinance. These amendments would create three regulatory categories for MFUs. Collectively, they are intended to achieve the following outcomes:

- Create regulatory clarity by defining and regulating mobile food sites that are distinct from brick-and-mortar restaurants. Lack of regulations tailored to the needs of MFUs discourages both investment and compliance.
- Create a clear and flexible permitting path for property owners wanting to host MFUs.
- Ensure mobile food sites are conducted as lawful uses in a manner that is not detrimental or disruptive to neighboring properties, residents and public infrastructure.
- Protect public health and safety through coordination with other agencies to ensure all MFU operations are conducted in lawful compliance with county, state and federal requirements.

### ***Regulatory Categories***

Staff recommends a three-category approach to regulating mobile food sites. These categories are primarily based on the number of MFUs, the length of time they stay at a site and the type of improvements proposed. This approach provides a flexible permitting path that is typical of those used by other jurisdictions in the region. The following table summarizes the three regulatory categories recommended by staff. Proposed standards in each category are discussed further in this section.

**Table 1**

|  | <b>EXEMPT FROM PERMIT</b>                | <b>SMALL MOBILE FOOD SITES</b>                                      | <b>LARGE MOBILE FOOD SITES</b>                               |
|--|--|---|--|
| <b>Use Type</b>                          | Exempt                                   | Temporary Use   | Special Use  |
| <b>Review Procedure</b>                  | Exempt from land use permit requirements | Type I  | Type II  |
| <b>Time Limit</b>                        | 12 hours or less                         | 1 year (renewable)  | None   |
| <b>Number of Carts</b>                   | No restriction                           | 1-8   | 9 or more*   |
| <b>Qualifying Site</b>                   | Must be located on a developed site**    | Must be located on a developed site**                               | May be located on a developed or undeveloped site            |
| <b>Permitted Structures</b>              | None permitted                           | Shelters limited to tents, canopies and similar membrane structures | Any structure permitted by the applicable land use district. |
| <b>Public Facilities (CDC Article V)</b> | Exempt                                   | Exempt  | Must comply with Public Facility Standards                   |
| <b>Parking</b>                           | None required                            | None required   | 1 space per cart***  |

\* Also applies to mobile food sites containing less than nine carts when buildings or structures are proposed, when located on an undeveloped site and/or when drive-thru service is proposed.

\*\* As proposed in the ordinance, a developed site is a “lot or parcel or combination of lots or parcels containing a lawfully established parking area, with or without existing buildings or structures.”

\*\*\* Minimum parking may be reduced below this standard, as permitted in Section 413-8 (Reduction of Minimum Off-Street Parking).

As noted in the background section of this report, an early draft of the regulations was presented at two PC meetings. Feedback received at those meetings was incorporated into the proposed ordinance and includes the following changes:

- Simplifying the regulations from four to three permitting categories;
- Relaxing time limits for exempt sites from six to 12 hours;
- Allowing a larger number of MFUs via a temporary use permit; and
- Removing the 200-square-foot limit on eating shelters.

***Land Use Districts***

Article III of the CDC contains the function and standards of each land use district in the county. Staff recommends that these be modified to allow MFUs in commercial, industrial, institutional and some transit-oriented districts. MFUs would not be allowed in residential or future development districts.

The following table summarizes the land use districts where staff recommends the different types of MFU sites be allowed:

**Table 2**

| <b>PERMITTED LAND USE DISTRICTS</b>                            | <b>EXEMPT SITES</b> | <b>SMALL SITES</b> | <b>LARGE SITES</b> |
|--|---------------------|--------------------|--------------------|
| Neighborhood Commercial (NC)                                   | P                   | P                  | P                  |
| Office Commercial (OC)   | P                   | P                  | P                  |
| Community Business District (CBD)                              | P                   | P                  | P                  |
| General Commercial (GC)  | P                   | P                  | P                  |
| Industrial (IND)   | P                   | P                  | N                  |
| Institutional (INST)   | P                   | P                  | N                  |
| Rural Commercial (R-COM)                                       | P                   | N                  | N                  |
| Transit Oriented Retail Commercial (TO:RC)                     | P                   | P                  | P                  |
| Transit Oriented Employment (TO:EMP)                           | P                   | P                  | P                  |
| Transit Oriented Business (TO:BD)                              | P                   | P                  | P                  |
| Neighborhood Corner Commercial District North Bethany (NCC NB) | P                   | P                  | P                  |
| Neighborhood Commercial Mixed Use North Bethany (NCMU NB)      | P                   | P                  | P                  |
| In Conjunction with Existing Institutional Use (Any District)  | P                   | N                  | N                  |

*P = Permitted / N = Not Permitted*

The proposed amendments generally allow all mobile food sites in the same districts that permit eating-and-drinking establishments (brick-and-mortar restaurants) that sell to the general public. Exceptions to this include the following:

- The Rural Commercial district (R-COM) would only allow exempt sites. Staff recommends against allowing small and large mobile food sites in R-COM due to concerns they might become a destination for nonrural residents, contrary to the purpose of the R-COM district to serve the basic convenience and service needs of the rural and natural resource community (CDC Section 352-1).
- The Industrial and Institutional districts currently limit eating-and-drinking establishments to accessory uses such as employee cafeterias. For consistency, staff recommends only exempt or small mobile food sites be allowed in these districts, since large mobile food sites have the potential to draw a significant number of out-of-district visitors.
- The proposed amendments would allow existing institutional uses in any district to host mobile food sites meeting the criteria for exempt sites. This is intended to allow special events and provide food choices at places like parks, schools or religious institutions that may not be located in an Institutional land use district.

***Definitions***

Three new definitions would be added to CDC Section 106 (Definitions) for food cart, mobile food site and mobile food unit, to clearly define the sites as a distinctly different use than traditional eating-and-drinking establishments.

***Exemption from Permit Requirement***

The existing language of CDC Section 201-2 establishes allowed activities that are exempt from a development permit. New text would be added to exempt sites hosting MFUs for less than 12 hours within a 24-hour period, provided certain standards are met regarding location, utilities and pedestrian/vehicle safety.

- Twelve hours is recommended as a reasonable duration that would allow MFUs to operate without fundamentally altering the primary use of the site. Staff originally proposed six hours, but revised the standard based on PC input.
- By limiting the duration of MFUs at these sites, the MFUs are less likely to create lasting area impacts such as unwanted noise and or a significant reduction in available on-street parking.
- No limit is proposed on the number of MFUs that may be present on a site, provided the site is free of MFUs for at least 12 hours per day.
- No limit is proposed on the number of days per week, month or year that a property may host MFUs.
- As discussed previously in this report, exempt mobile food sites would be allowed in the broadest range of land use districts.

Table 3 compares exemption criteria among several jurisdictions.

**Table 3**

| <b>JURISDICTION</b>          | <b>EXEMPTION CRITERIA</b>                                  |
|------------------------------|--|
| Happy Valley                 | MFU present two hours or less per day                      |
| Clackamas County             | MFU present two hours or less per day                      |
| Beaverton                    | MFU present three hours or less per day                    |
| Gresham                      | MFU present four hours or less per day                     |
| Washington County (proposed) | MFU present 12 hours or less per day                       |
| Tigard                       | No time limit provided certain locational criteria are met |
| Portland                     | No time limit provided certain locational criteria are met |

As shown in Table 3, the time limitation proposed for exempt MFUs is greater than some jurisdictions and less than others.

***Minimum Off-Street Parking Requirements***

CDC Section 413-6.1 establishes minimum parking requirements for specified land uses.

Following are the parking recommendations for mobile food sites:

- No parking requirements for exempt or small mobile food sites;
- One parking space per MFU for large mobile food sites; and
- Like other land uses, large mobile food sites would be eligible for all parking reduction options available in Section 413-8 (Reduction of Minimum Off-Street Parking). This could include a potential reduction of up to 100 percent of required parking through the submission of a parking analysis that substantiates the reduction.

Staff is unaware of any traffic or parking studies completed regarding mobile food sites. Given this lack of information and the temporary nature of exempt or small mobile food sites, staff recommends only large mobile food sites be required to provide off-street parking. This is due to their relatively large size and ability to construct permanent shelters that could draw a substantial number of visitors throughout the year. Should parking become an issue for small mobile food sites, the issue could be revisited in a future ordinance and implemented when the temporary use permit is renewed. Table 4 compares the parking standards of other jurisdictions.

**Table 4**

| <b>JURISDICTION</b>                 | <b>MINIMUM REQUIRED PARKING</b>   |
|-------------------------------------|---|
| <b>Portland</b>                     | None  |
| <b>Tigard</b>                       | None  |
| <b>Washington County (Proposed)</b> | One space per MFU for large mobile food sites.<br>None required for small mobile food sites.  |
| <b>Beaverton</b>                    | One space per MFU in commercial and industrial districts.<br>None required in Multiple Use Zones  |
| <b>Clackamas County</b>             | None for developed sites.<br>Two spaces per MFU when there are three or more units on a previously undeveloped site.  |
| <b>Gresham</b>                      | Applicant to prepare a parking demand analysis to be reviewed by the city.<br>Off-street parking may be required if the applicant cannot demonstrate that adequate parking is available to meet demand. |
| <b>Happy Valley</b>                 | 11.5 spaces per 1000 square feet of enclosed seating area. Same ratio as brick-and-mortar restaurants.  |

***Special Use Standards for Large Mobile Food Sites***

New CDC Section 430-81 would define and establish special use standards for large mobile food sites. Special use standards provide for a specific use, and are in addition to existing base land use district standards in the CDC. Approval would require a Type II land use procedure.

The standards of new Section 430-81 would govern mobile food sites hosting nine or more MFUs and/or associated permanent structures (e.g., eating shelters or other buildings). It would also regulate smaller food sites containing site or operational characteristics that are more appropriately reviewed through a Type II procedure. A Type II procedure requires public notice, provides the opportunity for the public or affected agencies to comment on the proposal, and allows staff to use more discretion when appropriate. In addition, a Type II procedure also allows the County to apply conditions of approval that may be necessary to minimize impacts to public infrastructure or nearby land uses.

Following is a description of the types of uses that staff recommends be considered large mobile food sites and the reasoning behind this recommendation:

- *Sites with nine or more MFUs and/or sites with permanent structures.* Such sites are more likely to become local or subregional destinations; with that comes the potential to generate off-site impacts such as noise and increased vehicular traffic. Regional examples include the BG Food Cartel, Happy Valley Station, Cartlandia and the Portland Mercado.

- *Sites without a lawfully established parking area, regardless of the number of MFUs.* Such sites contain undeveloped land that is being converted to a commercial land use.
- *Drive-thru mobile food sites, regardless of their size.* Existing County standards for drive-thru service (Section 430-41) require County staff to exercise discretion and impose conditions of approval. Discretionary standards and conditions of approval may only be applied through a Type II or III procedure.

The proposed text includes development standards for parking and circulation, accessory structures, minimum setbacks and utility and sanitation. These development standards include:

- Parking and circulation standards to protect customer safety, preserve site access and ensure sufficient parking is available for both the mobile food site and existing uses on the site (if any).
- No limits on the type or size of accessory structures, provided they satisfy the standards of the underlying land use district.
- Minimum yard and setback standards, since MFUs are vehicles, not structures and are not subject to existing minimum yard requirements.
- A minimum separation distance of at least five feet between MFUs, for fire safety. There have been several fires involving one or more MFUs in the city of Portland. A contributing factor to the cause of these fires was the lack of distance between MFUs. The County's Building Official concurs that a five-foot separation is a reasonable requirement.

New application submittal requirements are designed to facilitate interdepartmental and interagency coordination with Washington County Department of Health & Human Services, local fire protection districts and the Oregon Liquor Control Commission. The proposal requires sign off from each agency to ensure bathrooms, wastewater, fire code issues and alcoholic beverage service issues are addressed. Addressing these issues may affect the proposed layout of the mobile food site.

This language is included due to Health & Human Services requirements (e.g., bathrooms and waste disposal), and fire district concerns (preservation of egress paths and site access) that may influence the layout of the mobile food site.

### ***Small Mobile Food Sites***

A new temporary use section would define and establish standards for small mobile food sites. The temporary use section intended for land uses that are impermanent in nature. Staff recommends that small sites with minimal amenities and no permanent structures be treated in the same manner as other permitted temporary uses such as farmers markets, Christmas tree lots and festivals.

This new section is intended to govern mobile food sites that contain no more than eight MFUs on an existing parking area and no permanent buildings. The number of units was increased from six to eight, based on PC input that the proposed regulations be less restrictive. The proposed standards and application requirements are substantially similar to those of large mobile food sites, with a few key differences:

- Like other temporary uses, permits would be valid for one year and would be renewable.
- Only previously developed sites with hard parking surfaces may host a small mobile food site. As proposed in the ordinance, a developed site is a “lot or parcel or combination of lots or parcels containing a lawfully established parking area, with or without existing buildings or structures.” This standard ensures the MFUs remains capable of being mobile in a short amount of time and is more likely to provide an accessible walking surface to customers and employees with mobility issues.
- Structures would be limited to tents, canopies and other membrane structures. Permanent buildings and structures are not consistent with a time-limited approval.
- Like other temporary uses, there is no minimum parking standard.

Environmental Health Request for Allowance of Accessory Structure

Subsequent to the PC hearing, the County’s Public Health Division requested that small mobile food sites be allowed to have portable storage facilities to accommodate ancillary supplies such as plates, napkins and cups (Attachment B). Staff believes this is a reasonable request, and that the size of these storage facilities should be limited to less than 120 square feet to ensure they can be easily removed from the site, are similar to other accessory structures allowed for small mobile food sites, and would not require a building permit.

Staff recommends that the following language be added to the standards for accessory items and structures for small mobile food sites:

430-135.1 Type I:

\*\*\*

J. Mobile Food Sites (Small)

\*\*\*

(2) Standards: Small mobile food sites shall comply with the following:

\*\*\*

(b) Accessory Items and Structures:

i. Portable accessory items such as tables and trash cans are permitted;

ii. One portable storage facility less than 120 square feet is permitted;

iii. Structures used to provide shelter to customers shall be limited to tents, canopies, and similar membrane structures. Other structures for customer shelter are not allowed;

\*\*\*

***Application of Public Facility and Service Requirements***

New text would exempt all Type I temporary uses, including small mobile food sites, from meeting the requirements of Section 501 (Public Facility and Service Requirements). The intent of this change is to codify an existing administrative practice of not requiring temporary, time-limited uses such as Christmas tree lots and farmers markets to dedicate or construct public facility improvements.

***PC Testimony and Staff Response***

At the April 4 public hearing for the ordinance, two members of the public provided oral testimony. One of them identified himself as an owner of property that contains an existing mobile food site and the other identified herself as a MFU operator. The following is a summary of their comments and staff's response:

1. *Location of Mobile Food Sites (Small)*: Ordinance No. 831 requires MFUs allowed through a Type 1 Mobile Food Site (Small) application to be located on paved surfaces. A request was made to allow MFUs to also be placed on gravel and landscaped areas. Allowing MFUs to be placed on unpaved surfaces would provide some flexibility in the configuration of a mobile food site.

**Staff Response**

The PC supported the request to allow placement of MFUs on unpaved surfaces to allow more site flexibility and potentially conserve more parking and circulation areas on a site. However, after the PC hearing, staff identified several issues regarding this request. While allowing placement on unpaved surfaces would provide more locational options for MFUs, this proposal could potentially impact accessibility, requirements for landscape and screening/buffer areas, or create environmental or safety issues.

The standard requiring placement of MFUs on paved surfaces addresses accessibility issues and it ensures MFUs remain capable of being mobile quickly. Locating MFUs on landscape areas could also potentially impact required landscaped areas or buffer or screening requirements between two land uses. Impacts like these require a level of discretionary staff review that would be inconsistent with the Type I application process. Further, placement of MFUs in unpaved areas could result in adverse impacts to the site or adjacent properties from potential spills from general MFU activity and or there could be more issues with rodents or fire hazards.

For the reasons described above, staff recommends against changing the requirement that MFUs be placed on a paved surface. However, should the Board agree with the Planning Commission recommendation to allow mobile food units on unpaved (gravel or landscaped) surfaces, staff recommends, at the least, public access to MFUs be paved. Amendment to Section 430-135.1.J.(2)(a)ii could read:

430-135.1 Type I:

\*\*\*

J. Mobile Food Sites (Small)

\*\*\*

(a) Parking and Circulation:

\*\*\*

i. Mobile food units, permitted accessory items and structures...\*\*\*

ii. Access to all mobile food units and associated amenities shall be placed on- from a paved surface;

\*\*\*

2. *Existing MFUs:* Concerns were raised about existing MFUs and their ability to meet the proposed regulations in this ordinance. At the hearing a request was made that the ordinance include provisions for grandfathering existing MFUs.

Staff Response

As discussed in the background section of this report, the CDC currently does not permit MFUs or mobile food sites. Existing MFUs that are currently in operation are not compliant with the CDC. Ordinance No. 831 is being proposed to address the trend toward more MFUs in the county, but the objective is to allow them in certain land use districts and with standards to assure that MFUs are safe and do not adversely impact surrounding properties.

The CDC has provisions for nonconforming uses - uses that were allowed prior to the development of new regulations - that allow such uses to remain in operation. Existing MFUs, however, are not currently allowed nor have they been allowed in the past under the CDC. Since existing MFUs are not a legal, nonconforming use, they will be required to comply with any new regulations adopted through this ordinance.

3. *Time Limits on Exempt MFUs:* Ordinance No. 831 proposes that MFUs located at a site for less than 12 hours in a 24-hour period be excluded from development review. To better accommodate their operation, a request was made to extend the hours exempt MFUs are allowed at a site.

Staff Response

Ordinance No. 831 proposes exemptions from development permits for certain MFUs that were expected to have minimal impacts to the surrounding area due to the short time they will be on a site. Limiting the duration of exempt MFUs helps to minimize the impacts to adjacent properties such as unwanted noise or reductions to available on-street parking. Staff originally proposed six hours but extended to 12 hours after the PC suggested the additional hours. Staff believes 12 hours is a reasonable duration to allow MFUs to operate without fundamentally altering the primary use of the site. No changes are proposed.

### **Summary of Proposed Changes**

Ordinance No. 831 proposes to amend the CDC to allow the establishment of mobile food sites in commercial, industrial, institutional and some transit-oriented land use districts in unincorporated Washington County.

- Adds mobile food sites as an allowed use in specific land use districts in unincorporated Washington County.
- Exempts sites hosting MFUs for 12 hours or less within a 24-hour period from land use permit requirements in nonresidential districts, provided certain site standards are met.
- Requires a Type I Temporary Use process for approval of small mobile food sites. A small mobile food site has no more than eight MFUs located on a previously developed site, without buildings or structures (except tents and canopies).
- Exempts Type I Temporary Uses from the provisions of Section 501 (Public Facility and Service Requirements).
- Requires a Type II Special Use (SU) process for approval of large mobile food sites. A large mobile food site has one or more of the following: nine or more MFUs, is not located on a developed site, provides drive-thru service, and/or contains buildings and/or structures.

Staff is recommending that the Board engross Ordinance No. 831 to include the following standard:

- Allow one portable storage facility less than 120 square feet for small mobile food sites.

Staff does not recommend any additional amendments to Ordinance No. 831.

Attachment A: Planning Commission deliberations from April 4, 2018.

Attachment B: Email from Jon Kawaguchi, Environmental Health Program Supervisor, dated 04/19/18



# WASHINGTON COUNTY OREGON

## WASHINGTON COUNTY PLANNING COMMISSION WEDNESDAY, APRIL 4, 2018

### Draft Deliberations

#### **Proposed Ordinance No. 831 - An Ordinance Amending the Community Development Code (CDC) an Element of the Comprehensive Plan, Relating to Mobile Food Units**

Planning Commission (PC) members present: A. Richard Vial, Jeff Petrillo, Ian Beaty, Eric Urstadt, and Matt Wellner. PC members absent: Ed Bartholemy, Tegan Enloe, Deborah Lockwood, and Anthony Mills.

Staff present: Andy Back, Theresa Cherniak, Suzanne Savin, John Floyd, Sambo Kirkman, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel.

#### Summary

##### **a. Ordinance No. 831 – Mobile Food Units**

Theresa Cherniak, principal planner, and John Floyd, associate planner from the Community Planning section of LRP gave a Power Point presentation on Ordinance No. 831. Staff's presentation provided an overview of the ordinance which included: background and history, definition, options for consideration, ordinance summary, proposed regulations information and staff recommendation.

#### Recommendation

Recommend approval of Ordinance No. 831 to the Board of Commissioners (Board).

#### Oral testimony in opposition

- Robert Young, 18631 SW TV Hwy, Aloha, OR - Mr. Young testified that he owns a center in Aloha and leases space to eight mobile food units. He stated that back in 1969, his initial thought was to provide a community service by offering a variety of foods. His concern is regarding the ordinance requirement allowing mobile food units only on paved surfaces. The mobile food units located on his property are on a landscape surface; however, windows face a paved surface. The proposed ordinance requirements if adopted could potentially force these mobile food units operating on shoe string budget. Mr. Young could lose five out of the eight mobile food unit leases. Mr. Young asked that consideration be given to already established mobile food units and any new mobile food units going forward would comply with the new regulations.
- Jenny Saldanas (business owner), 1117 SE 47<sup>th</sup> Ct, Hillsboro, OR – Concerned about the impact of possible new regulations regarding hours of operation for a mobile food unit. She shared that her food cart operates 12 hours or more during peak seasons.

#### **Department of Land Use & Transportation · Planning and Development Services Long Range Planning**

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PC discussion

- A question regarding a grandfather clause for established mobile food units.
- Discussion of possible alternative surfaces to paving.
- A question regarding the definition of lawfully established parking area.
- A question regarding whether the fire marshal vetted the five feet spacing to reduce fire risk.
- A comment that food carts should be allowed in every district.
- A question regarding application process time and if an out of compliance mobile food unit could be shut down during this time once the ordinance is implemented.

Recommendation

- Recommend approval of Ordinance No. 831 to the Board.

Final Vote

Commissioner Wellner moved to recommend adoption of Ordinance No. 831 to the Board with one amendment to allow mobile food units to locate on pavement, landscape or gravel surfaces. Commissioner Petrillo seconded the motion. **Vote: 5 – 0. Motion passed.**

| Commissioner | Vote   |
|--------------|--------|
| Bartholemy   | Absent |
| Beaty        | Yes    |
| Enloe        | Absent |
| Lockwood     | Absent |
| Mills        | Absent |
| Petrillo     | Yes    |
| Urstadt      | Yes    |
| Vial         | Yes    |
| Wellner      | Yes    |

End of deliberations.

**From:** [Jon Kawaguchi](#)  
**To:** [Sambo Kirkman](#)  
**Cc:** [Frank Brown](#)  
**Subject:** Warehouse Storage Units and Unpaved Surfaces  
**Date:** Thursday, April 19, 2018 5:25:18 PM

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Sambo,

The Oregon Food Sanitation Rules allows Mobile Food Unit (MFU) operators to have Warehouses for storage of food, utensils, single-service articles, cleaning or servicing supplies. No food preparation or food handling are allowed in warehouses. Warehouses are required to be licensed and are inspected two times a year. Warehouses provide additional storage off of the MFU therefore, creating more space for needed equipment to support the operator's menu and capacity demands in their already very limited space. The Oregon Food Sanitation Rules do not have any surface requirement for MFU to be on during operation. Due to sanitation and rodent/insect infestation concerns, Environmental Health would suggest MFUs at food pods operate on nonabsorbent surfaces like concrete or asphalt.

Thank you,

**Jon Kawaguchi | Environmental Health Program Supervisor**

Public Health Division, Environmental Health Program  
Washington County Dept. of Health and Human Services  
155 N. First Avenue, Suite 160, MS 5 | Hillsboro, OR 97124  
503-846-4932 desk | 503-329-3008 cell | 503-846-3705 fax  
[www.co.washington.or.us/hhs/](http://www.co.washington.or.us/hhs/) [Facebook](#)

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**PROPOSED LAND USE ORDINANCE NO. 831**  
***Individual and General Notice 2018-01***  
***March 9, 2018***

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed **Ordinance No. 831**. Listed below is a description of the ordinance, hearing dates and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact Long Range Planning at [lutplan@co.washington.or.us](mailto:lutplan@co.washington.or.us) or 503-846-3519.

**ORDINANCE PURPOSE AND SUMMARY:**

**Ordinance No. 831** would amend the Community Development Code to allow the establishment of mobile food sites (also known as food cart pods) in commercial, industrial and institutional land use districts in unincorporated Washington County.

**Who is Affected**

Property owners and those residing on or near land in the following land use districts: Neighborhood Commercial (NC), Office Commercial (OC), Community Business District (CBD), General Commercial (GC), Industrial (IND), Institutional (INST), Rural Commercial (R-COM), Transit Oriented Retail Commercial (TO:RC), Transit Oriented Employment (TO:EMP), Transit Oriented Business (TO:BUS), Neighborhood Corner Commercial North Bethany (NCC NB) and Neighborhood Commercial Mixed Use North Bethany (NCMU NB); or near land containing an existing permitted institutional use.

**What Land is Affected**

Land in the NC, OC, CBD, GC, IND, INST, R-COM, TO:RC, TO:EMP, TO:BUS, NCC NB and NCMU NB Districts, or land in conjunction with an existing permitted institutional use.

**PUBLIC HEARING INFORMATION/LOCATION:**

Hearings are in the Shirley Huffman Auditorium, Hillsboro Civic Center, 150 E. Main St., Hillsboro

**Planning Commission**

**1:30 p.m.**  
**April 4, 2018**

**Board of Commissioners**

**10 a.m.**  
**May 1, 2018**

At its May 1, 2018, public hearing, the Board may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If adopted May 1, it would become effective 30 days later.

### **KEY PROVISIONS:**

- Adds mobile food sites as an allowed use in specific land use districts in unincorporated Washington County.
- Exempts sites hosting mobile food units for 12 hours or less within a 24-hour period from permit requirements in nonresidential districts, provided certain site standards are met.
- Requires a Type I Temporary Use process for approval of small mobile food sites. A small mobile food site has no more than 8 mobile food units located on a previously developed site, without buildings or structures (except tents and canopies).
- Exempts Type I Temporary Uses from the provisions of Section 501 (Public Facility and Service Requirements).
- Requires a Type II Special Use (SU) process for approval of large mobile food sites. A large mobile food site has one or more of the following: 9 or more mobile food units, is not located on a developed site, provides drive-thru service, and/or contains buildings and/or structures.

### **AFFECTED LAND USE PLANNING DOCUMENTS:**

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#### **Community Development Code**

- Section 106 – Definitions
- Section 201 – Development Permit
- Section 302 – R-5 District (Residential 5 units per acre)
- Section 303 – R-6 District (Residential 6 units per acre)
- Section 304 – R-9 District (Residential 9 units per acre)
- Section 305 – R-15 District (Residential 15 units per acre)
- Section 306 – R-24 District (Residential 24 units per acre)
- Section 307 – R-25+ District (Residential 25 units or more per acre)
- Section 308 – Future Development 20-Acre District (FD-20)
- Section 309 – Future Development 10-Acre District (FD-10)
- Section 311 – Neighborhood Commercial District (NC)
- Section 312 – Office Commercial District (OC)
- Section 313 – Community Business District (CBD)
- Section 314 – General Commercial District (GC)
- Section 375 – Transit Oriented Districts
- Section 390 – North Bethany Subarea Overlay District
- Section 413 – Parking and Loading
- Section 430 – Special Use Standards
- Section 501 – Public Facility and Service Requirements

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### **HOW TO SUBMIT COMMENTS:**

- Submit oral or written testimony to the Planning Commission and/or the Board at one of the public hearings.
- Written testimony, including email, may be sent to the Planning Commission or Board in advance of the public hearings at the address shown on the front of this notice.
- Include the author's name and address with any public testimony.

#### **Staff Contact**

John Floyd, Associate Planner, [john.floyd@co.washington.or.us](mailto:john.floyd@co.washington.or.us), 503-846-8817

The ordinance is available for review at the following locations:

- [www.co.washington.or.us/landuseordinances](http://www.co.washington.or.us/landuseordinances)
- Department of Land Use & Transportation
- Cedar Mill Community Library and Tigard Public Library
- Community Participation Organizations (CPOs), call 503-846-6288



BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE 831

An Ordinance Amending the Community  
Development Code, an Element of the  
Comprehensive Plan, Relating to Mobile Food  
Units

The Board of County Commissioners of Washington County, Oregon (“Board”) ordains as follows:

SECTION 1

A. The Board recognizes that the Community Development Code Element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, and subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 659-662, 667, 669, 670, 674, 676, 677, 682-686, 692, 694-698, 703, 704, 708, 709, 711, 712, 718-720, 722, 725, 730, 732, 735, 739, 742-745, 754-758, 760, 762, 763, 765, 766, 769-776, 782-788, 791, 792, 797-802, 804, 809-811, 813-815, 820, 822, 823-824, and 826-828.

B. The increased public interest in mobile food units (“food carts”) indicates the need for updates to the Community Development Code Element of the Comprehensive Plan to

1 create regulations for such units. The Board recognizes that such changes are necessary from  
2 time to time for the benefit and welfare of the residents of Washington County, Oregon.

3 C. Under the provisions of Washington County Charter Chapter X, the  
4 Department of Land Use and Transportation has carried out its responsibilities, including  
5 preparation of notices, and the County Planning Commission has conducted one or more  
6 public hearings on the proposed amendments and has submitted its recommendations to the  
7 Board. The Board finds that this Ordinance is based on that recommendation and any  
8 modifications made by the Board, as a result of the public hearings process.

9 D. The Board finds and takes public notice that it is in receipt of all matters and  
10 information necessary to consider this Ordinance in an adequate manner and finds that this  
11 Ordinance complies with the Statewide Planning Goals, the standards for legislative plan  
12 adoption as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington  
13 County Charter, the Washington County Community Development Code, and the Washington  
14 County Comprehensive Plan.

15 SECTION 2

16 The following exhibit, attached hereto and incorporated herein by reference, is adopted  
17 as an amendment to the designated document as follows:

18 A. Exhibit 1 (12 pages), amends the following sections of the Community  
19 Development Code:

- 20 1. Section 106 - Definitions;
- 21 2. Section 201 – Development Permit;
- 22 3. Section 302 – R-5 District (Residential 5 Units per Acre);

4. Section 303 – R-6 District (Residential 6 Units per Acre);
5. Section 304 – R-9 District (Residential 9 Units per Acre);
6. Section 305 – R-15 District (Residential 15 Units per Acre);
7. Section 306 – R-24 District (Residential 24 Units per Acre);
8. Section 307 – R-25+ District (Residential 25 Units or More per Acre);
9. Section 308 – Future Development 20-Acre District (FD-20);
10. Section 309 – Future Development 10-Acre District (FD-10);
11. Section 311 – Neighborhood Commercial District (NC);
12. Section 312 – Office Commercial District (OC);
13. Section 313 – Community Business District (CBD);
14. Section 314 – General Commercial District (GC);
15. Section 375 – Transit Oriented Districts;
16. Section 390 – North Bethany Subarea Overlay District;
17. Section 413 – Parking and Loading;
18. Section 430 – Special Use Standards; and
19. Section 501 – Public Facilities and Service Requirements.

**SECTION 3**

All other Comprehensive Plan provisions that have been adopted by prior ordinance, which are not expressly amended or repealed herein, shall remain in full force and effect.

**SECTION 4**

All applications received prior to the effective date shall be processed in accordance with ORS 215.427.

1     SECTION 5

2             If any portion of this Ordinance, including the exhibit, shall for any reason be held  
3     invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be  
4     affected thereby and shall remain in full force and effect.

5     SECTION 6

6             The Office of County Counsel and Department of Land Use and Transportation are  
7     authorized to prepare planning documents to reflect the changes adopted under Section 2 of  
8     this Ordinance, including deleting and adding textual material and maps, renumbering pages  
9     or sections, and making any technical changes not affecting the substance of these  
10    amendments as necessary to conform to the Washington County Comprehensive Plan format.

11    ///

12    ///



Sections of the COMMUNITY DEVELOPMENT CODE are amended to reflect the following:

**1. SECTION 106 - DEFINITIONS**

**106-90** Food Cart or Food Truck. See Mobile Food Unit.

**106-140** Mobile Food Site. All or part of a development site that contains one or more mobile food units and associated amenities. Also known as a food cart pod.

**106-142** Mobile Food Unit. Pursuant to OAR 333-150 and 333-162, any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, or highway, in which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer. Also known as a food cart or food truck.

**2. SECTION 201 - DEVELOPMENT PERMIT**

**201-2 Exclusions from Permit Requirement**

The following activities are permitted in each district but are excluded from the requirement of obtaining a development permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this Code. The activities set forth below are not excluded from the requirement to obtain approval of erosion control measures to the extent the activity is subject to Section 426.

\*\*\*

**201-2.34** Mobile food site that complies with all of the following standards:

- A. Sites hosting any number of mobile food units for twelve (12) or fewer hours within a twenty-four (24) hour period. Mobile food units cannot be stored on-site;
- B. Each mobile food unit is entirely self-contained with no connections to on-site utilities;
- C. Mobile food units(s) are not occupying or obstructing pedestrian walkways, loading areas, driveways, drive aisles, bicycle parking areas, or emergency vehicle access; and
- D. The site is located in the NC, OC, CBD, GC, IND, INST, R-COM, TO:RC, TO:EMP, TO:BUS, NCC NB, or NCMU NB Districts, or is in conjunction with an existing permitted institutional use.

**3. SECTION 302 - R-5 DISTRICT (RESIDENTIAL 5 UNITS PER ACRE)**

**302-2 Uses Permitted Through a Type I Procedure**

\*\*\*

**302-2.9** Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**4. SECTION 303 - R-6 DISTRICT (RESIDENTIAL 6 UNITS PER ACRE)**

**303-2 Uses Permitted Through a Type I Procedure**

\*\*\*

303-2.9 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**5. SECTION 304 - R-9 DISTRICT (RESIDENTIAL 9 UNITS PER ACRE)**

**304-2 Uses Permitted Through a Type I Procedure**

\*\*\*

304-2.11 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**6. SECTION 305 - R-15 DISTRICT (RESIDENTIAL 15 UNITS PER ACRE)**

**305-2 Uses Permitted Through a Type I Procedure**

\*\*\*

305-2.9 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**7. SECTION 306 - R-24 DISTRICT (RESIDENTIAL 24 UNITS PER ACRE)**

**306-2 Uses Permitted Through a Type I Procedure**

\*\*\*

306-2.9 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**8. SECTION 307 - R-25+ DISTRICT (RESIDENTIAL 25 UNITS OR MORE PER ACRE)**

**307-2 Uses Permitted Through Type I Procedure**

\*\*\*

307-2.8 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**9. SECTION 308 - FUTURE DEVELOPMENT 20-ACRE DISTRICT (FD-20)**

**308-2 Uses Permitted Through a Type I Procedure:**

\*\*\*

308-2.8 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**10. SECTION 309 - FUTURE DEVELOPMENT 10-ACRE DISTRICT (FD-10)**

**309-2 Uses Permitted Through a Type I Procedure**

\*\*\*

309-2.8 Temporary Use - Section 430-135.1, excluding C. (9) and J.

\*\*\*

**11. SECTION 311 - NEIGHBORHOOD COMMERCIAL DISTRICT (NC)**

**311-3 Uses Permitted Through a Type II Procedure**

\*\*\*

311-3.27 Mobile Food Site (Large) - Section 430-81.

**12. SECTION 312 - OFFICE COMMERCIAL DISTRICT (OC)**

**312-3 Uses Permitted Through a Type II Procedure**

\*\*\*

312-3.29 Mobile Food Site (Large) - Section 430-81.

**13. SECTION 313 - COMMUNITY BUSINESS DISTRICT (CBD)**

**313-3 Uses Permitted Through a Type II Procedure**

\*\*\*

313-3.43 Mobile Food Site (Large) - Section 430-81.

\*\*\*

**14. SECTION 314 - GENERAL COMMERCIAL DISTRICT (GC)**

**314-3 Uses Permitted Through a Type II Procedure**

\*\*\*

314-3.47 Mobile Food Site (Large) - Section 430-81.

\*\*

**15. SECTION 375 - TRANSIT ORIENTED DISTRICTS**

**375-4 Permitted Uses and Review Procedures**

Table A identifies uses permitted in each of the Transit Oriented Districts, and the land use procedure through which a use may be permitted.

~~Uses that are permitted in each of the Transit Oriented Districts are described in Table A. The procedure through which uses may be permitted is also specified in Table A.~~

**375-7 Development Limitations for Permitted Uses in Transit Oriented Districts**

The following use or design limitations apply where specified in Table A:

\*\*\*

36. Small and Large Mobile Food Sites are permitted in the TO:RC, TO:BUS, and TO:EMP Districts, subject to the provisions of Section 430-81 and 430-135.

**375-10 Development Standards for Transit Oriented Districts**

\*\*\*

**Table A. Permitted and Prohibited Uses in Transit Oriented Districts**

| USE   | DISTRICT  |           |           |              |               |               |               |               |                |
|---|-----------|-----------|-----------|--------------|---------------|---------------|---------------|---------------|----------------|
|   | TO:RC     | TO:BUS    | TO:EMP    | TO:<br>R9-12 | TO:<br>R12-18 | TO:<br>R18-24 | TO:<br>R24-40 | TO:<br>R40-80 | TO:<br>R80-120 |
| ***<br><b>Accessory,<br/>Secondary<br/>and<br/>Temporary<br/>Uses and<br/>Structures:</b> |           |           |           |              |               |               |               |               |                |
| Accessory<br>Uses and<br>Structures<br>(23.a. and<br>23.b.)                               | I or II   | I or II   | I or II   | I            | I             | I             | I             | I             | I              |
| Temporary<br>Uses and<br>Structures (24<br>and 36)  | I         | I         | I         | I            | I             | I             | I             | I             | I              |
| <u>Mobile Food<br/>Sites (Large)<br/>(36)</u>   | <u>II</u> | <u>II</u> | <u>II</u> | <u>N</u>     | <u>N</u>      | <u>N</u>      | <u>N</u>      | <u>N</u>      | <u>N</u>       |

\*\*\*

- I = Permitted through a Type I process. If a use does not follow the minimum design standards in Section 431, the use shall be reviewed as a Type III use pursuant to Section 375-4.1.
- II = Permitted through a Type II process. If a use does not follow the minimum design standards in Section 431, the use shall be reviewed as a Type III use pursuant to Section 375-4.2.
- III = Permitted through a Type III process.
- () = Use or design limitation(s) specified in Section 375-7.
- N = Prohibited.

**16. SECTION 390 - NORTH BETHANY SUBAREA OVERLAY DISTRICT**

**390-8 R-6 North Bethany District (R-6 NB)**

390-8.2 Uses Permitted Through a Type I Procedure

\*\*\*

- K. Temporary Use - Section 430-135.1, except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G.) ~~and~~, temporary use permit for Farmers Markets (430-135.1 C. (9)), and temporary use permits for Mobile Food Sites (Small) (430-135.1 J.).

**390-9 R-9 North Bethany District (R-9 NB)**

390-9.2 Uses Permitted Through a Type I Procedure

\*\*\*

- L. Temporary Use - Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G.) ~~and~~, temporary use permit for Farmers Markets (430-135.1 C. (9)), and temporary use permits for Mobile Food Sites (Small) (430-135.1 J.).

**390-10 R-15 North Bethany District (R-15 NB)**

390-10.2 Uses Permitted Through a Type I Procedure

\*\*\*

- I. Temporary Use - Section 430-135.1, except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G.) ~~and~~, temporary use permit for Farmers Markets (430-135.1 C. (9)), and temporary use permits for Mobile Food Sites (Small) (430-135.1 J.).

**390-11 R-24 North Bethany District (R-24 NB)**

390-11.2 Uses Permitted Through a Type I Procedure

\*\*\*

- I. Temporary Use - Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G.) ~~and~~, temporary use permit for Farmers Markets (430-135.1 C. (9)), and temporary use permits for Mobile Food Sites (Small) (430-135.1 J.).

**390-12 R-25+ North Bethany District (R-25+ NB)**

390-12.2 Uses Permitted Through a Type I Procedure

\*\*\*

- H. Temporary Use - Section 430-135.1 except for temporary storage of relocated dwelling structures (430-135.1 C. (4)), temporary batch plants (430-135.1 G.) ~~and~~, temporary use permit for Farmers Markets (430-135.1 C. (9)), and temporary use permits for Mobile Food Sites (Small) (430-135.1 J.).

**390-13 Neighborhood Corner Commercial District (NCC NB)**

390-13.3 Uses Permitted Through a Type II Procedure

\*\*\*

S. Mobile Food Site (Large) - Section 430-81.

**390-14 Neighborhood Commercial Mixed Use District (NCMU NB)**

390-14.3 Uses Permitted Through a Type II Procedure

\*\*\*

W. Mobile Food Site (Large) - Section 430-81.

**17. 413 - PARKING AND LOADING**

**413-6 Minimum and Maximum Off-Street Parking Requirements**

The minimum and maximum number of off-street parking spaces by type of use shall be determined in accordance with the following tables. New development shall provide no more than the maximum number of off-street parking spaces listed unless exempted by Sections 413-6.4 or 413-6.7, or adjusted by Sections 413-6.5 or 413-6.6. The minimum and maximum off-street parking requirements for a use not listed shall be the same as the most similar listed use as determined by the Review Authority, or as determined through a parking analysis as described in Section 413-8.6.

413-6.1 Minimum Off-Street Parking Requirements

|      | USE                             | MINIMUM NUMBER OF STANDARD OFF-STREET PARKING SPACES PER UNIT OF MEASURE |
|------|---------------------------------|--|
| ***  |                                 |  |
| C.   | <b>Business and Commercial:</b> |  |
| ***  |                                 |  |
| (10) | <u>Mobile Food Site (Large)</u> | <u>One (1) for each mobile food unit</u>                                 |
| ***  |                                 |  |

**18. 430 - SPECIAL USE STANDARDS**

**430-81 Mobile Food Sites (Large)**

The standards of this section apply to mobile food sites meeting one or more of the following:

- A. Contains nine (9) or more mobile food units;
- B. Is not located on a developed site. For purposes of this section, a developed site is a lot or parcel or combination of lots or parcels containing a lawfully established parking area, with or without existing buildings or structures.
- C. Contains mobile food units providing drive-in or drive-up service; and/or
- D. Contains buildings and/or structures (excluding tents, canopies, and similar membrane structures).

430-81.1 Development Standards:

A. Parking and Circulation:

- (1) All mobile food units and associated amenities shall be placed on a paved surface;
- (2) Mobile food units shall not occupy or obstruct pedestrian walkways, loading areas, driveways, drive aisles, or emergency vehicle access;
- (3) Mobile food units shall not be located or oriented in a way that requires customers to queue in a driveway or drive aisle;
- (4) Mobile food units, permitted accessory items and structures, and customer queuing areas may occupy existing off-street automobile parking spaces only if such spaces are in excess of the minimum number required for the mobile food site and existing uses;
- (5) Parking shall be provided for the mobile food site, consistent with Section 413; and
- (6) Mobile food units providing drive-in or drive-up service shall meet the requirements of Section 430-41.

B. Accessory Items and Structures:

- (1) Attachments to the mobile food unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground;
- (2) All accessory items not used by customers shall be enclosed or screened from view from the public right-of-way and abutting residential districts; and

(3) Accessory buildings and structures are subject to the dimensional standards of the underlying land use district.

C. Minimum Setbacks:

(1) Mobile food units shall comply with minimum yard requirements of the underlying land use district;

(2) In addition, mobile food units shall comply with the following setback requirements:

(a) At least twenty (20) feet from any property line abutting a residential district; and

(b) At least five (5) feet between mobile food units.

D. Utility and Sanitation:

(1) Generators are prohibited; and

(2) Waste and recycling receptacles shall be provided.

430-81.2 Application Submittal Requirements

In addition to the requirements of Section 203-4.2, the application shall include the following:

A. Documentation from the Washington County Department of Health & Human Services that requirements for sanitation and wastewater disposal will be met;

B. Documentation from the appropriate fire protection district that fire code requirements will be met;

C. If applicable, written approval from the Oregon Liquor Control Commission; and

D. A site plan containing all of the following:

(1) The proposed boundaries of the mobile food site, and the location of all mobile food units, seating areas, accessory items, and any permitted structures;

(2) The orientation of service windows and doors on the mobile food units; and

(3) The location of required on-site parking.

**430-824 Neighborhood Commercial (In Conjunction with Housing for the Elderly)**

This neighborhood commercial may include a small grocery, postal substation, beauty shop and barbershop and may be allowed in conjunction with a project for housing for the elderly when:

430-824.1 The floor area of the commercial use is limited to five thousand (5000) square feet;

430-824.2 The housing project has been approved for no less than one hundred (100) dwelling units;

430-824.3 The project is at least one-quarter (1/4) mile from an existing planned Neighborhood Commercial or Community Business District area or use;

430-824.4 The commercial use is internal to the project and may be reached only by a local street or pedestrian access;

430-824.5 Signing shall be limited to one (1) identification sign of six (6) square feet; and

430-824.6 The building permits for a neighborhood commercial use shall not be issued until fifty (50) percent of the dwelling units in the project have been constructed.

#### **430-101 Professional Office (in a Residential District)**

A professional office is the office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others. When professional office uses are located in a residential district they shall be allowed only in conjunction with residential development and shall:

\*\*\*

430-101.3 If both Professional Office (Section 430-101) and Neighborhood Commercial (Section 430-824 or 430-83) uses are proposed, the two uses together shall not exceed twenty (20) percent of the floor area of the residential development.

\*\*\*

#### **430-135 Temporary Use**

A temporary use is one of an impermanent nature, or one used for a limited time.

430-135.1 Type I:

\*\*\*

##### J. Mobile Food Sites (Small)

Mobile food sites containing no more than eight (8) mobile food units on a single development site may be approved as a temporary use when the following standards are met:

(1) Qualifying Site: Small mobile food sites shall be located on a developed site. For purposes of this section, a developed site is a lot or parcel or combination of lots or parcels containing a lawfully established parking area, with or without existing buildings or structures.

(2) Standards: Small mobile food sites shall comply with the following:

(a) Parking and Circulation:

- i. Mobile food units, permitted accessory items and structures, and customer queuing areas may occupy existing off-street automobile parking spaces only if such spaces are in excess of the minimum number required for existing development;
- ii. All mobile food units and associated amenities shall be placed on a paved surface;
- iii. Mobile food units shall not occupy or obstruct pedestrian walkways, loading areas, driveways, drive aisles, or emergency vehicle access;
- iv. Mobile food units shall not be located or oriented in a way that requires customers to queue in a driveway or drive aisle; and
- vi. Drive-thru service is prohibited.

(b) Accessory Items and Structures:

- i. Portable accessory items such as tables and trash cans are permitted;
- ii. Structures used to provide shelter to customers shall be limited to tents, canopies, and similar membrane structures. Other structures for customer shelter are not allowed;
- iii. Attachments to the mobile food unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground; and
- iv. All accessory items not used by customers shall be stored in, on, or under the unit.

(c) Minimum Setbacks:

- i. Mobile food units shall comply with minimum yard requirements of the underlying land use district;
- ii. In addition, mobile food units shall comply with the following requirements:
  - At least twenty (20) feet from any property line abutting a residential district; and
  - At least five (5) feet between mobile food units.

(d) Utility and Sanitation:

- i. Generators are prohibited; and
- ii. Waste and recycling receptacles shall be provided.

- (3) Submission Requirements: In addition to the requirements of Section 203-4.2, the application shall include the following:
- (a) Documentation from the Washington County Department of Health & Human Services that requirements for sanitation and wastewater disposal will be met;
  - (b) Documentation from the appropriate fire protection district that fire code requirements will be met;
  - (c) If applicable, written approval from the Oregon Liquor Control Commission; and
  - (d) A site plan containing all of the following:
    - i. The proposed boundaries of the mobile food site, and the location of all mobile food units, seating areas, accessory items, and any permitted structures;
    - ii. The orientation of service windows and doors on the mobile food units; and
    - iii. The location of required on-site parking.
- (4) Renewal: The mobile food site shall comply with the following permit renewal requirements:
- (a) Temporary permits shall be valid for one (1) calendar year from the date of issuance; and
  - (b) The renewal application shall be submitted prior to expiration of the existing permit.

## **19. 501 - PUBLIC FACILITY AND SERVICE REQUIREMENTS**

501-2 Application of the Public Facility and Service Standards Inside a UGB

Application of the Public Facility and Service Standards (Section 501-1 through 501-13) shall apply to the Urban Unincorporated Area as follows:

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501-2.5 Public Facility and Service Standards (Section 501-1 through 501-13) shall not apply to Type I Temporary Uses (Section 430-135.1).

~~501-2.65~~ Notwithstanding Section 501-2, all new construction and expansion of existing structures shall pay the:

- A. Transportation Development Tax, except as provided in the Transportation Development Tax Ordinance; and

- B. North Bethany Transportation System Development Charge (NBTSDC), except as provided in the Resolution and Order adopting the NBTSDC; or
- C. Bonny Slope West Transportation System Development Charge (BSWTSDC), except as provided in the Resolution and Order adopting the BSWTSDC.