

City of Rainier Planning Meeting/Public Hearing

June 5, 2019

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Erin O’Connell, Chairperson, called the meeting to order at 5:05 p.m.

Planning Commissioners Present: Erin O’Connell, Julie Kauppi, Dena Nordstrom, Al Guist, Paul Langner. Rainier City Planner Skip Urling

Planning Commissioners Absent: Steve Hov

Others Present: Gabe Newbold; Contractor, Rob Rich and Dennis Malloy of Shaver Transportation

Flag Salute.

Citizen Comments: None.

Approval of November 18, 2018 Planning Meeting Minutes: Langer moved, Guist 2nd, to approve the minutes as presented – **motion passed unanimously with Nordstrom and Kauppi abstaining**

Public Hearings: Shaver Transportation Re-Zone

O’Connell opened the public hearing 6:09pm and read the hearing disclosure statement. No biases, ex-parte or conflicts were declared.

Gabe Newbold, Contractor from Cascade Buildings introduced himself and made the correction that the building was going to be 48 x 60 which is 2800 square feet, not 1200 as noted in the Planner’s Staff Report to the Planning Commission. O’Connell asked if applicant had any comments. Rob Rich gave an overview of what Shaver Transportation does here in Rainier and explained they need more storage space for parts and equipment. O’Connell asked if any proponents? none or opponents? none. Urling noted a base flood point elevation certificate may be required by FEMA. Urling also noted an error on pg.1 of the Staff Report: 18.40 General Commercial Zone; and that it should state 18.45; Waterfront Commercial. Guist asked what the building height was going to be. Newbold stated it would be approximately twelve (12) feet about the road surface. O’Connell closed the public hearing at 6:23pm. Guist read the suggested motion provided by Urling; “Based on the findings and conclusions of the May 29, 2019 staff report, I move that the Planning Commission send a recommendation to the Rainier City Council to approve Shaver Transportation application to amend the Rainier Zoning Map designations for Tax Lots 7N2W16DB100 and 200 from Central Business District to Waterfront Commercial”; Kauppi 2^{nds} the motion and the motion passed unanimously.

New Planning Commission members Julie Kauppi and Dena Nordstrom introduced themselves. Urling briefed them on training information he can provide to them. O'Connell talked about working on a view/height restriction ordinance.

Planner's Report: Urling talked about setting meeting dates and times and noted they can be cancelled if nothing on agenda. He recommended having the meetings the first Wednesday of the month. Planning Commission discussed updating the planning ordinances and moving forward. O'Connell noted that she would like to have Exhibits like a map with details with the application as she felt it would help to have a visual. Urling noted that Seawright's temporary use permit has expired for her temporary travel trailer on her property located at 523 East 2nd. Urling stated he would draft a letter notifying her.

O'Connell adjourned the meeting at 7PM.

Erin O'Connell, Chairperson

Sarah Blodgett, Secretary

**APPLICATION FOR SERVING ON
CITIZEN ADVISORY BOARDS/COMMITTEES
CITY OF RAINIER**

Date: 10-8-20

Name: NINA Phillips

Mailing Address: ↓

Street Address: 30193 sandy Lane Rainier, OR 97048

Phone Number: 360 442 3927

Length of Residency in Rainier: 12/19

I am interested in serving on one or more of the following Boards/Committees of the City of Rainier. (See back for descriptions.)

- | | |
|--|---|
| <input type="checkbox"/> City Council | <input checked="" type="checkbox"/> Planning Commission (volunteer) |
| <input type="checkbox"/> Library Board (volunteer) | <input type="checkbox"/> Budget Committee (volunteer) |
| <input type="checkbox"/> Park Advisory Group (volunteer) | <input type="checkbox"/> 'A' Street Advisory Committee (volunteer) |

1. Why are you interested in serving on this Board or Committee?

I would like to be more involved in our community

2. What strengths do you possess to contribute to this Board or Committee?

I've been involved in many non-profits, own a business in Rainier & feel I'll be a welcome addition.

3. Do you have previous or current experience in community affairs? If so, please explain.

Volunteer coordinator for Rainier Days, have coordinated Hometowns annual events, I know this is a different aspect but know I'll be an asset.

Thank you for completing this questionnaire and your interest in serving your community.

Proposed Rainier Planning Commission Meeting Dates

Wednesday, December 9, 2020

Wednesday, January 13, 2021

Wednesday, February 10, 2021

Wednesday, March 10, 2021

Wednesday, April 14, 2021

Wednesday, May 12, 2021

Wednesday, June 9, 2021

Wednesday, July 14, 2021

Wednesday, August 11, 2021

Wednesday, September 8, 2021

Wednesday, October 13, 2021

Wednesday, November 10, 2021

Wednesday, December 8, 2021

Model Mobile Food-Vendor Freedom Ordinance

May 1, 2020

A BILL REGULATING MOBILE FOOD VENDORS:

WHEREAS, mobile food vending is a popular and diverse part of local economies across the United States;

WHEREAS, [XXX Municipality] desires to support economic development, foster opportunities for small businesses and encourage mobile food vending;

WHEREAS, [XXX Municipality] seeks to increase consumer access to desired local foods;

WHEREAS, [XXX Municipality] aspires to simplify food vending regulations; and

WHEREAS, [XXX Municipality] seeks to protect public health and safety by ensuring mobile food vendors follow clear, narrowly tailored regulations that address demonstrable health and safety risks.

NOW, THEREFORE, BE IT ORDAINED BY THE [LEGISLATIVE BODY] OF [XXX MUNICIPALITY] AS FOLLOWS:

SECTION 1. DEFINITIONS.

The following words and phrases in this section shall have the meanings given, except where the context clearly indicates a different meaning:

- A. Applicant: A person applying to [XXX Municipality] to operate as a mobile food vendor.
- B. Customer: Any person with whom a mobile food vendor conducts business, or any person who stops to contemplate conducting business with a mobile food vendor.
- C. Food Vending Vehicle: Any motorized vehicle used to sell food or beverages by a mobile food vendor.
- D. Mobile Food Vendor: Any person who dispenses food or beverages from a food vending vehicle for immediate service and/or consumption.
- E. Prepackaged Food: Any commercially labeled and processed food that is prepackaged to prevent direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.
- F. Private Property: All property that is not public property.

- G. Public Property: Any property owned and operated by [XXX Municipality]. Public property includes all rights-of-way except public sidewalks and rights-of-way in city-owned parks.
- H. Sell: To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession or control for the purpose of selling.
- I. Person: Any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entity's employees or agents.

SECTION 2. MOBILE FOOD VENDING BUSINESS PERMITTED.

- A. No person may operate as a mobile food vendor in [XXX Municipality] without obtaining a mobile food vending license under this chapter and any other licenses or permits that may be required by other applicable state or county law.
- B. A separate mobile food vending license shall be required for each food vending vehicle operated by a mobile food vendor.
- C. A violation of this Chapter may result in the suspension or revocation of a mobile food vending license and civil penalties.

SECTION 3. LICENSE APPLICATION AND GENERAL STANDARDS.

- A. **Application requirements.** An applicant shall submit a written application, under oath, to [Pertinent Licensing Agency] on a form provided by [Pertinent Licensing Agency] for a mobile food vending license. The application shall contain the following information:
 - 1) The applicant's name, address and telephone number;
 - 2) The name, address and telephone number of any associated entities or organizations that the applicant is representing and copies of documents verifying that relationship;
 - 3) The applicant's primary residence and/or business addresses for the past five years;
 - 4) The nature of the food or beverages that the applicant will sell for the purpose of the [Pertinent Licensing Agency] establishing the applicant's food type classification; and
 - 5) Whether the applicant was denied a license to operate as a mobile food vendor or whether the applicant had a mobile food vending license suspended or revoked and, if so, the reasons for the denial, suspension or revocation.

- B. **Requirements for each food vending vehicle.** In addition to the written application, an applicant shall provide the following information for each food vending vehicle:
- 1) A list of all vehicle license numbers, vehicle descriptions, vehicle identification numbers, and vehicle registration for the food vending vehicle(s);
 - 2) Proof of vehicle insurance for the food vending vehicle(s); and
 - 3) [If the state or municipality requires a special license or permit for commercial vehicles] A copy or proof of any additional licenses or permits required by the State or municipality for the food vending vehicle(s).
- C. **Requirements for food vending vehicle drivers.** Any person who drives a food vending vehicle shall hold a current [classification/level required by this state for food vending vehicles] driver's license.
- D. **Requests for information.** The applicant shall complete the application and submit additional information requested by the [Pertinent Licensing Agency] as allowed by this section. The applicant may submit one application for all vehicles which require a license but shall pay a separate licensing fee for each license. Failure to submit a complete application may result in denial of a license.
- E. **Health inspection.** Within 30 days of receiving a complete application, the [Pertinent Health Agency] or its designee shall conduct a health inspection of the applicant's food vending vehicle prior to issuing a mobile food vending license. The purpose of the inspection is to ensure the applicant's food vending vehicle is safe for preparing, handling and selling food and the applicant follows [state's food code]. Upon passage of a health inspection, the applicant shall receive a health certificate for the food vending vehicle.
- F. **Issuance of License.** The [Pertinent Licensing Agency] shall issue a mobile food vending license to the applicant upon receipt of a complete application and the applicant's food vending vehicle(s) passing an initial inspection. Licenses shall be valid for one year.
- G. **Substitution of licensed food vending vehicles.** Licenses are not transferable, nor shall a license authorize the activities licensed by any person other than the licensee, except that the sale of a food vending vehicle identified in a license application, when replaced by another food vending vehicle on a one-for-one basis, will not invalidate the original license nor require a new license application. When replacing a food vending vehicle with another vehicle, the licensee shall provide the [Pertinent Licensing Agency] the information required by subdivision B of this section. The health inspection of a replacement vehicle shall take place as soon as practicable but no more than fourteen (14) calendar days from the [Pertinent Licensing Agency's] receipt of the information in subdivision B of this section.

- H. **Transfer of assets.** If a mobile food vendor transfers its mobile food vending business assets, the recipient of the assets shall, before operating, apply for and obtain a new mobile food vending license from the [Pertinent Licensing Agency].
- I. **Fees.** The [Pertinent Licensing Agency] is authorized to establish a reasonable schedule and classifications of fees not to exceed two hundred dollars (\$200) for a mobile food vending license. An applicant shall pay license fee established by the [Pertinent Licensing Agency] unless otherwise exempted.
- J. **Renewal.** Licenses shall be renewed annually. The [Pertinent Licensing Agency] shall send notice to the licensee. The licensee shall submit the renewal annually, prior to the license's expiration date. A licensee may continue operations while an application for renewal is pending with the [Pertinent Licensing Agency].
- K. **Unlawful conduct.** It is unlawful for any person to intentionally provide false information or to intentionally omit information on an application for a license under this Chapter.
- L. **Application guide.** The [Pertinent Licensing Agency] shall prepare a guide for applicants. The guide shall include instructions for applying for, obtaining, maintaining, and renewing a mobile food vending license and shall describe the standards used to inspect food vending vehicles. The guide shall be made available to applicants at the [Pertinent Licensing Agency's] office and on [XXX Municipality's] website.

SECTION 4. MOBILE FOOD VENDING VEHICLE OPERATIONS.

- A. **Compliance with state and local law.** Mobile food vendor shall follow any applicable state and local laws, including without limitation all fire codes, zoning codes, occupational tax codes, and any other applicable state or local code provisions.
- B. **Location of operations.** A mobile food vendor may operate in the following locations:
 - 1) **Public property.** A mobile food vendor may operate on public property, so long as the food vending vehicle is not parked within twenty (20) feet of an intersection. A mobile food vendor may operate from legal parking spaces, including metered spaces upon payment of appropriate fees, on the public right of way. When operating on public property, a mobile food vendor is subject to the same parking rules, restrictions, and obligations that a commercial vehicle would be subject to if not used by a mobile food vendor.
 - 2) **Private property.** A mobile food vendor may operate on private property under the following circumstances:

- (i) The property is in an Industrial, Commercial or Institutional Zoning District, and the vendor has permission of the property owner and/or his or her designee.
 - (ii) The property is in a Residential Zoning District, and the mobile food vendor has been invited by a resident in that district to operate on their property for the purpose of serving food to that resident or their guests.
- 3) **No interference with pedestrians or vehicles.** A mobile food vendor shall not interfere with or obstruct the passage of pedestrians or vehicles along any street, sidewalk or parkway.

C. **Operational standards.** When operating, a mobile food vendor shall:

- 1) Maintain a food vending vehicle in good operating order and visual appearance, including removing any graffiti that is not a part of the overall design or art featured on the vehicle;
- 2) Park so that its service window faces the sidewalk;
- 3) Serve customers through its service window;
- 4) Provide a waste receptacle for customers which is clearly marked and request its use by customers;
- 5) Pick up, remove and dispose of all refuse within twenty-five (25) feet of the vendor's operating area at the conclusion of service;
- 6) Submit to and pass any required health inspections; and
- 7) Display its mobile food vendor license and health certificate in a conspicuous location in its operating window for public view.

D. **Rulemaking authority.**

- 1) The [Pertinent Licensing Agency] may promulgate administrative rules regulating mobile food vendors and mobile food vending vehicles to implement this Chapter. Any rule adopted by the [Pertinent Licensing Agency] must be narrowly tailored to address a demonstrable health or safety risk.
- 2) Rules adopted pursuant to this section may not:
 - (i) Require a mobile food vendor to operate a specific distance from the perimeter of an existing commercial establishment or restaurant;

- (ii) Impose operating hours that differ from the operating hours imposed on restaurants;
- (iii) Require a mobile food vendor to enter into any agreement with a commercial establishment or restaurant;
- (iv) Require a mobile food vendor that only serves prepackaged food to have a handwashing sink in the vendor's food vending vehicle;
- (v) Require a mobile food vendor to associate with a commissary if the vendor carries all the equipment necessary to comply with health and safety standards and [the state food code];
- (vi) Limit the number of mobile food vendor licenses issued;
- (vii) Require the mobile food vendor to obtain any additional permits from [XXX Municipality], unless the mobile food vendor seeks to operate in a local, public park;
- (viii) Require a mobile food vendor to be fingerprinted;
- (ix) Require a mobile food vendor to install a GPS tracking device on the vendor's vehicle;
- (x) Require a mobile food vendor to stay in constant motion except for when serving customers;
- (xi) Require a mobile food vendor to maintain insurance that names [XXX Municipality] as an additional insured unless the vendor is attending an event sponsored by [XXX Municipality]; and
- (xii) Require a mobile food vendor to submit to inspections beyond the number and scope of the health inspections conducted by the [Pertinent Health Licensing Agency] unless there is an investigation of a reported foodborne illness.

SECTION 5. FOOD SAFETY; HEALTH INSPECTIONS AND CERTIFICATES

- A. **Food hygiene standards.** Mobile food vendors shall follow [the state food code].
- B. **Food safety certification.** At all times, at least one person working in a food vending vehicle must hold a current food safety certification.

- C. **Mobile food vendor classifications.** Upon receipt of a complete license application, the [Pertinent Health Licensing Agency] shall classify a mobile food vendor into one of the following three classifications for the purpose of conducting inspections:
- (i) **Mobile Food Type I Vendor.** A vendor who dispenses prepackaged foods and/or non-time/temperature control for safety (non-TCS) beverages or poses a low risk of harm to the public shall be classified as a Mobile Food Type I Vendor.
 - (ii) **Mobile Food Type II Vendor.** A vendor who dispenses food that requires limited handling and preparation shall be classified as a Mobile Food Type II Vendor.
 - (iii) **Mobile Food Type III Vendor.** A vendor who prepares, cooks, holds and serves food from the food vending vehicle shall be classified as a Mobile Food Type III Vendor.
- D. **Health inspections.** For the purpose of protecting public health and safety, the [Pertinent Health Licensing Agency] shall ensure that mobile food vendors are inspected on an ongoing, randomized basis pursuant to the frequency set forth in subdivision H of this section based on their classification and inspection grade.
- E. **Recordkeeping.** [XXX Municipality] shall establish and maintain a database to record the names of licensees, inspections, inspection reports and public complaints. The database shall also allow mobile food vendors to provide periodic itineraries to the [Pertinent Health Licensing Agency].
- F. **Inspection criteria and grading.** Health inspections shall be conducted by the [Pertinent Health Licensing Agency] using inspection criteria based on the state food code and a score-based grading system established by [Pertinent Health Licensing Agency] based on objective factors. The inspection criteria shall provide a letter-grade format that rates the vendor with an “A,” “B,” “C,” or “F” grade, based on the score received during the inspection. If a vendor receives two consecutive “A” grades, it shall be given a certificate of excellence. If a vendor receives an “F” grade, the [Pertinent Licensing Agency] may suspend the vendor’s license until the vendor corrects the violations, is re-inspected and receives a grade of “A,” “B,” or “C.”
- G. **Health certificate.** Upon completion of an inspection, the [Pertinent Health Licensing Agency] shall issue a health certificate to the mobile food vendor displaying the vendor’s letter grade or achievement of excellence and record the grade in the database.
- H. **Frequency of Inspections.** Health inspections shall occur on a randomized basis, pursuant to the following frequency, based on the mobile food vendor’s classification.

- 1) **Mobile Food Type I Vendors.** A Mobile Food Type I Vendor shall be inspected only upon the [XXX Municipality] being notified of a public health or safety complaint regarding the vendor. If the inspection reveals a violation of law, the vendor shall become subject to inspections at the frequency set for a Mobile Food Type II Vendor until the vendor obtains a certificate of excellence.
 - 2) **Mobile Food Type II Vendors.** A Mobile Food Type II Vendor shall be inspected once per calendar year. If a Mobile Food Type II Vendor receives a certificate of excellence, it shall become subject to inspections at the frequency set for Mobile Food Type I Vendors. If a Mobile Food Type II Vendor holding a certificate of excellence receives a score lower than an “A” on a subsequent inspection, the vendor shall lose its certificate of excellence and return to being inspected once per year.
 - 3) **Mobile Food Type III Vendors.** A Mobile Food Type III Vendor shall be inspected twice per calendar year. If a Mobile Food Type III Vendor receives a certificate of excellence, it shall be inspected at the frequency set for Mobile Food Type II Vendors. If a Mobile Food Type III Vendor holding a certificate of excellence receives a score lower than an “A” on a subsequent inspection, the vendor shall lose its certificate of excellence and return to being inspected twice per calendar year.
- I. **Changing classifications.** The [Pertinent Health Licensing Agency] shall specify the categories of foods or beverages that mobile vendors in each classification may serve. If a mobile food vendor seeks to serve food or beverages that may require the vendor to be reclassified, the mobile food vendor shall notify the [Pertinent Health Licensing Agency] of the nature of the food or beverages to be sold, and the [Pertinent Health Licensing Agency] shall reclassify the mobile food vendor.
 - J. **Notice of location for inspections; administrative warrant.** The mobile food vendor may provide the locations where the vendor operates on social media. A mobile food vendor who does not provide the locations where the vendor operates on social media shall submit periodic itineraries to [Pertinent Health Licensing Agency] using the database created under Section 5E. The mobile food vendor may request the [Pertinent Health Licensing Agency] obtain an administrative warrant prior to conducting an inspection.
 - K. **Inspection costs; reimbursement.** The [Pertinent Licensing Agency] shall determine the average cost of conducting a health inspection. The [Pertinent Licensing Agency] shall charge the mobile food vendor an inspection fee at the time the mobile food vendor applies for or renews a license, based on the average cost of conducting an inspection, multiplied by the number of annual inspections required for the upcoming year as required by this section. A mobile food vendor may request reimbursement for an inspection that was not conducted at the expiration of the mobile food vending license or when the vendor renews a license. The [Pertinent Licensing Agency] shall reimburse the vendor for any inspection that was not conducted in the previous year within thirty (30) calendar days following receipt of a mobile food vendor’s request.

SECTION 6. LICENSE DENIAL, SUSPENSION, REVOCATION AND APPEALS

- A. The Director of the [Pertinent Licensing Agency] may deny, suspend or revoke a license issued under this Chapter. A license may be denied, suspended or revoked only for the following reasons:
- 1) Fraud, misrepresentation or a false statement contained in the application for a license.
 - 2) Fraud, misrepresentation or a false statement made in connection with the selling of food.
 - 3) Any facts or conditions that would justify the denial of the original application.
 - 4) Three (3) or more violations of this chapter over a period of twelve (12) months.
 - 5) The receipt of an “F” grade during an inspection or an investigation in response to a complaint.
- B. Any person who has been notified regarding the denial of their mobile food vending application or the possible suspension or revocation of their mobile food vending license may appeal to the [Pertinent Administrative Review Board] within fourteen (14) calendar days of receipt of said notice. Other than as described in subdivision C of this section, no license shall be suspended or revoked prior to a hearing if a mobile food vendor requests a hearing within the 14-day period required. Upon receipt of a request for a hearing, the [Pertinent Administrative Review Board] shall hold a hearing within fourteen (14) calendar days and issue findings of fact, conclusions of law and a decision.
- C. When circumstances demonstrate that continued operation by a mobile food vendor poses an imminent threat to the public’s health and safety, the [Pertinent Licensing Agency] may immediately suspend or revoke a mobile food vending license. The mobile food vendor may request a hearing before the [Pertinent Administrative Review Board] regarding the suspension or revocation within fourteen (14) calendar days of receiving notice of the suspension or revocation. Any hearing regarding the summary suspension or revocation of a license shall be given priority over all potential license denial, suspension or revocation proceedings and shall be held within seven (7) calendar days from the date the [Pertinent Licensing Agency] receives a mobile food vendor’s request for a hearing. The [Pertinent Administrative Review Board] shall issue findings of fact, conclusions of law and a decision.
- D. It is unlawful for a mobile food vendor whose license has been suspended or revoked to operate. If the [Pertinent Licensing Agency] suspends or revokes a license, the mobile food vendor shall immediately cease all food vending operations.

- E. A mobile food vendor aggrieved by an order issued by the [Pertinent Administrative Review Board] may appeal the order to state district court.

For more information, contact:

Robert Frommer
Senior Attorney
Institute for Justice
(703) 682-9320
rfrommer@ij.org

Meagan Forbes
Legislative Counsel
Institute for Justice
(612) 435-3451
mforbes@ij.org

16.22.030 - Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the Planning Commission in accordance with the requirements of Chapter 16.60, Title 17 as applicable, other relevant sections of this title and any conditions imposed by the Planning Commission:

- A. Home occupations (Type II) subject to Chapter 16.46;
- B. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly incidental to the primary business conducted on the premises. (Ord. 415 § 7.74.030, 2002)
- C. Food carts located on the same property and accessory to an established indoor eating and drinking establishment.
 - 1. No structures, product display, or storage shall be located within yard setback or buffering and screening areas.
 - 2. Drive-through carts are prohibited.
 - 3. Signage shall comply with AMC 16.44 and Title 17, as applicable, and shall be calculated as a portion of total signage as permitted for the site.
 - 4. Shall be limited to one food cart per site/primary business.
 - 5. Food carts shall not have any internal floor space available to customers.
 - 6. Food carts shall not exceed twenty-six (26) feet in length, thirteen (13) feet in height and ten (10) feet in width.
 - 7. Carts shall be mobile and fully operable, on inflated wheels, and licensed with the Department of Motor Vehicles.
 - 8. Carts shall be in good repair with no exterior damage.
 - 9. Sewer or grey water disposal hookups are not permitted.

(Ord. 474 § 1, 2014)

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing the Columbia
County Food, Pool and Lodging Licenses and
Services Ordinance

ORDINANCE NO. 2019-2

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2019-2 and may also be cited and referred to as the "Columbia County Food, Pool and Lodging Licenses and Services Ordinance."

SECTION 2. AUTHORITY.

This Ordinance is adopted under the authority of ORS 203.035, ORS 431.141, ORS 431.143, ORS 431.150, ORS 431.413, and ORS 431.415.

Pursuant to ORS 431.003(7), Columbia County is the Local Public Health Authority (LPHA) for Columbia County. ORS 431.415 provides that the governing body of the LPHA shall adopt ordinances and rules necessary to administer ORS 431.001 to 431.550 and 431.990, any other public health law of Oregon, and any other public health matter not expressly preempted by a Oregon state law.

In accordance with ORS 446.425, ORS 448.100 and ORS 624.510, the Oregon Health Authority has delegated authority for environmental health services to the LPHA through Intergovernmental Agreement No. 156297, executed on February 20, 2018. The environmental health services program includes the inspection and licensing of restaurants and other food service establishments, tourist facilities, recreation sites, lodges and swimming pools.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to provide for the administration and enforcement of the licensing of restaurants and other food service establishments, tourist facilities, recreation sites, lodges and swimming pools, which the State of Oregon has delegated to Columbia County.

This Ordinance also repeals Ordinance No. 2014-6, In the Matter of Adopting an Ordinance Establishing a Review Procedure for Public Health Decisions, which is no longer necessary because the County is the Local Public Health Authority. This Ordinance also repeals Ordinance No. 2016-2, In the Matter of Adopting a Fee Schedule for Columbia County Food, Pool, and Lodging Licenses and Services, because those fees are now incorporated into this Ordinance.

SECTION 4. ADOPTION.

The Columbia County Food, Pool and Lodging Licenses and Services Ordinance, which is attached hereto and incorporated herein by this reference, is hereby adopted.

SECTION 5. SEVERABILITY.

If any provision of this Ordinance, including Exhibit A, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the remaining portions thereof.

SECTION 6. REPEALER.

Ordinance No. 2014-6, "In the Matter of Adopting an Ordinance Establishing a Review Procedure for Public Health Decisions," and Ordinance No. 2016-2, "In the Matter of Adopting a Fee Schedule for Columbia County Food, Pool, and Lodging Licenses and Services," are hereby repealed.

SECTION 7. SCRIVENER'S ERRORS.

Scrivener's errors in any portion of this Ordinance may be corrected by Order of the Board of County Commissioners.

SECTION 8. EMERGENCY CLAUSE.

This Ordinance being immediately necessary to maintain the public health, safety, and welfare, an emergency is declared to exist, and this Ordinance shall take effect upon adoption.

DATED this 13 day of November, 2019.

Approved as to form

By: 

Office of County Counsel

Attest:

By: 

Recording Secretary

First Reading: 10:15 A.M. - 11/13/19
Second Reading: 10:16 A.M. 11/13/19
Effective Date: 11/13/19

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By: 

Henry Heimuller, Chair

By: 

Margaret Magruder, Commissioner

By: 

Alex Tardif, Commissioner

EXHIBIT A

COLUMBIA COUNTY
FOOD, POOL AND LODGING LICENSES AND SERVICES ORDINANCE

COLUMBIA COUNTY
FOOD, POOL AND LODGING LICENSES AND SERVICES ORDINANCE

SECTION 1. PURPOSE.

This Ordinance provides for the administration and enforcement of environmental public health laws delegated to Columbia County by the State of Oregon for food service facilities, tourist facilities and pool facilities in accordance with ORS 446.425, ORS 448.100 and ORS 624.510 and OAR chapter 333, division 12.

SECTION 2. APPLICATION.

This Ordinance applies throughout Columbia County, Oregon, and within the limits of any incorporated city that consents to its application by decision of the city's governing body or its electors.

SECTION 3. DEFINITIONS.

- A. For the purposes of this Ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not advisory, and the term "this Ordinance" shall include this Ordinance and all amendments made hereafter.
- B. The words and phrases in this Ordinance shall have the meanings provided in the Oregon Revised Statutes and Administrative Rules, as set forth in Section 4, below.
- C. Other specific definitions as used in this Ordinance include:
 - 1. "Administrator" means the person appointed by the Board of County Commissioners under ORS 431.418 as the Local Public Health Administrator and the duly authorized deputy or assistant of that person.
 - 2. "Board" means the Board of County Commissioners for Columbia County, Oregon.
 - 3. "Department" means the Columbia County Public Health Department.
 - 4. "Food Service Facility" means restaurant, bed and breakfast, vending machine, food cart, warehouse, mobile unit, commissary or any other food establishment as defined by ORS 624.010, ORS 624.310, and OAR 333-150-0000 and 333-157-0073.

SECTION 4. ADOPTION OF LAWS AND REGULATIONS.

The following Oregon Revised Statutes and Administrative Rules are hereby adopted and incorporated into this Ordinance by this reference:

- A. Restaurants and bed and breakfast facilities (including limited service restaurants and temporary restaurants): ORS 624.010 to 624.035, 624.060 to 624.110, 624.130, and 624.992 and implementing Administrative Rules, including OAR chapter 333, division 150, 157, 158, 160 and 170.
- B. Commissaries, mobile units, and vending machines (including warehouses): ORS 624.310 to 624.440, and 624.992, and implementing Administrative Rules, including OAR chapter 333, division 162.
- C. Tourist facilities (including travelers' accommodations, hostels, picnic parks, recreation parks, and organizational camps): ORS 446.310 to 446.320, 446.322 to 466.349, and implementing Administrative Rules, including OAR chapter 333, divisions 29, 30, and 31.
- D. Pool facilities (including public swimming pools, public spa pools, public wading pools, and bath houses): ORS 448.005 to 448.060, 448.095 to 448.100, and implementing Administrative Rules, including OAR chapter 333, divisions 60 and 62.
- E. Administrative procedures: ORS 183.310, 183.413 to 183.502, and 183.745, and OAR 333-012-0050 to 333-012-0070, and 137-003-0001 to 137-003-0092.

SECTION 5. ADMINISTRATION.

The Administrator is the delegated authority to carry out the provisions of this Ordinance. Such delegation includes the authority available to the Director of Human Services (or its successor position title) under the Oregon Revised Statutes and Oregon Administrative Rules incorporated herein.

SECTION 6. LICENSE REQUIRED.

- A. Unless otherwise exempt under Oregon law, a license issued pursuant to this Ordinance is required to operate a food service facility, tourist facility, or pool facility in Columbia County.
- B. Before a license is issued or renewed under this Ordinance, the applicant must submit an application and pay the license fee. A license shall not be issued or renewed unless the facility complies with the applicable laws and regulations in Section 4.

- C. Licenses issued under this Ordinance shall expire at the end of each calendar year. For food service facilities, a reinstatement fee will be charged pursuant to ORS 624.490 to reinstate an expired license.
- D. Licenses shall not be transferrable nor shall refunds be issued on the unused portion of a license or upon applications that have been denied.

SECTION 7. LICENSE FEES.

Fees for licenses, inspections and administration of programs are set forth in Exhibit B of this Ordinance. Fees shall be adjusted annually on January 1, in accordance with the Consumer Price Index (CPI), as identified in the "All Urban Consumers, West Urban Index" published by the United States Department of Labor, Bureau of Labor Statistics over the twelve month period ending sixty days prior to the date of annual adjustment. The Board may amend the fees for programs under this Ordinance by order or resolution.

SECTION 8. LICENSE DENIAL, SUSPENSION, OR REVOCATION.

- A. A license required by Section 6 may be denied, suspended or revoked for failure to comply with the provisions of this Ordinance.
- B. Closure Procedures. The Department shall follow the applicable Oregon Health Authority closure procedures in OAR 333-157-0030 for restaurants; OAR 333-162-0910 for mobile food units, commissaries and warehouses; OAR 333-060-0705 for swimming pools; and OAR 333-062-0255 for spa pools.
- C. Notice. The Department's decision to deny, suspend or revoke a license shall be in writing and shall be personally served or mailed by certified or registered mail to the applicant whose license had been denied or license holder whose license has been suspended or revoked. Mailed notice shall be considered served when mailed. The Department's written notice shall include the following:
 - 1. A statement of the applicant or license holder's right to a contested case hearing under this Ordinance;
 - 2. A statement of the authority and jurisdiction under which the hearing is to be held;
 - 3. A reference to the particular sections of the ordinance, statutes and rules involved;
 - 4. A short and plain statement of the matters asserted or charged;

5. A statement indicating whether and under what circumstances and order by default may be entered;
6. A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website; and
7. A statement that if the applicant or license holder desires a hearing, the Department must be notified within:
 - a. Twenty (20) days of the date of serving the notice; or
 - b. Sixty (60) days of the date of serving the notice, when the Department refuses to issue a license required to pursue any commercial activity, trade, occupation or profession, if the refusal is based on grounds other than the results of a test or inspection.

D. When No Hearing Requested or Failure to Appear.

1. When a party fails to request a hearing within the time specified above, or fails to appear at a hearing, the Department or Hearings Officer shall enter an order supporting the Department's action.
2. The order supporting the Department's action shall set forth the material on which the action is based, and the material shall be attached to and made a part of the order.

SECTION 8. CONSTESTED CASE HEARING.

- A. A hearing provided under this Ordinance shall be conducted as a contested case hearing in accordance with the procedures set forth in ORS 183.411 et seq.
- B. The County will arrange for a hearing before an impartial hearings officer. The hearings officer may be a County employee, provided that the employee has no personal involvement with the Department's decision.

SECTION 9. PUBLIC NUISANCE.

Any facility that is operated in violation of this Ordinance is a public nuisance and dangerous to health and may be abated or enjoined in any manner provided by law.

SECTION 10. AMENDMENTS.

All amendments to the Oregon Revised Statutes and Oregon Administrative Rules adopted and incorporated into this Ordinance shall automatically be adopted into this Ordinance as well, with the same effective dates and set forth in such amended statutes and rules.

SECTION 11. ENFORCEMENT; REMEDIES NOT EXCLUSIVE.

- A. In addition to the enforcement procedures provided herein, this Ordinance is enforceable as provided by, and violators hereof are subject to the penalties provided in, the Columbia County Enforcement Ordinance.
- B. Pursuant to Section 11 of the Enforcement Ordinance, the Columbia County Public Health Administrator and any other person that the Board of Commissioners specifically approves are authorized to enforce this Ordinance.
- C. None of the remedies available to the County under this Ordinance are exclusive. Nothing in this Ordinance shall preclude any remedy otherwise available to the County, either in law or equity.

EXHIBIT B

COLUMBIA COUNTY

FOOD, POOL AND LODGING LICENSES AND SERVICES FEES



FOOD, POOL AND LODGING LICENSES AND SERVICES FEES

RESTAURANT LICENSES	FEE
Benevolent organization ¹	\$250
Limited service (prepackaged items only)	\$375
0-15 person seating	\$625
16-50 person seating	\$675
51-150 person seating	\$750
151+ person seating	\$850
Bed & breakfast	\$300
Late (reinstatement) fee ²	\$100/mo
Required recheck inspection (after 2 rechecks)	\$200
Prorated (10/1 – 12/31)	50%

TEMPORARY RESTAURANT LICENSES	FEE
Single event 1-30 days	\$150
Intermittent events 1-30 days	\$150
Seasonal event 1-90 days	\$150
Operational review for seasonal licenses	\$50
Out-of-county mobile unit with OR license ³	\$25
Benevolent organization (must show a valid IRS tax exempt ID number) ⁴	\$0 for 1 st event per calendar year; \$65 thereafter
Temporary event late fee (if received less than 7 days before the event)	\$100
Re-inspection fee (if required)	\$50

MOBILE UNIT LICENSES	FEE
Class I	\$300
Class II	\$375
Class III	\$400
Class IV	\$450
Warehouse	\$225
Commissary	\$380

¹ See ORS 624.490(3).

² See ORS 624.490(2).

³ See ORS 624.650.

⁴ See ORS 624.106(1)-(2).

POOL AND SPA LICENSES	FEE
License, general or seasonal (first pool or spa)	\$485
Second pool or spa (same location)	\$350
Additional (same location)	\$350

TOURIST FACILITIES	FEE
Organizational camp	\$500
Picnic park	\$240
Travelers' accommodations, 1-10 units	\$350
Travelers' accommodations, 11-25 units	\$375
Travelers' accommodations, 26-50 units	\$400
Recreation park, 1-5 spaces	\$400
Recreation park, 6-9 spaces	\$425
Recreation park, 10+ spaces	\$450

FOOD VENDING MACHINES	FEE
1-10 units	\$160
11-20 units	\$175
21-30 units	\$200
31-40 units	\$225
41-50 units	\$250
51-60 units	\$300
51-75 units	\$350
76-100 units	\$550
101-250 units	\$800
251-500 units	\$1,200
501-750 units	\$1,350
751-1000 units	\$1,350
1001-1500 units	\$1,350
1501+ units	\$1,350

CHILD CARE INSPECTIONS	FEE
Head start	\$275
0-15 children	\$175
16-40 children	\$225
41-75 children	\$285
75+	\$350

SCHOOL INSPECTIONS	FEE
Full kitchen	\$275
Satellite (no food prep)	\$150

PLAN REVIEW	FEE
Restaurant, 0-50 new construction	\$625
Restaurant, 51-150 new construction	
Restaurant, 151+ new construction	
Restaurant, remodel ⁵	\$400
Bed & breakfast	\$400
Mobile Unit - Class I	\$400
Mobile Unit - Class II	
Mobile Unit - Class III	
Mobile Unit - Class IV	
Commissary for mobile unit	\$350
Warehouse	\$165
Pool or spa	\$450
Tourist facility	\$350
Organizational camp	\$400
Recreation park	\$325
School food service	\$450
Child care center	\$225
Picnic park	\$200

FOOD HANDLER TRAINING PROGRAM	FEE
Individual test (self-train)	\$10
Classroom instruction	\$15/student

⁵ See ORS 624.630.

Robert A. Lucas

Kiman A. Lucas*

*of counsel
Oregon & Washington

LUCAS & ASSOCIATES
ATTORNEYS & COUNSELORS AT LAW

P.O. BOX 519
RAINIER, OR 97048-
0519
(503) 556-3741
FAX (503) 556-0708

November 12, 2020

TO: City of Rainier

SUBJECT: Proposed Food Truck Ordinance

I have reviewed the documents to be provided to the Rainier Planning Commission for their consideration at their meeting next week and have the following comments for their consideration.

First, to make it clear, I represent Roberta Boursaw regarding her food truck issue with the City of Rainier and have previously written my client and the city advising both that she lawfully obtained a business permit from the city to operate her food truck under the city ordinance #1058, the transient merchant ordinance. A copy of my March 24, 2020 letter is attached for your perusal.

So basically, you do not need a separate food truck ordinance as your ordinance #1058 is sufficient in conjunction with the existing state statutes and the county ordinance which licenses and inspects food trucks from a public health point of view.

The "Model Food-Vendor Freedom Ordinance" provided to the planning commission has much duplication with the state statutes and the county ordinance. If you are going to adopt this type of ordinance much of it could be deleted as unnecessary. In its place a short statement such as "Applicants/vendors must comply with all the food safety/preparation rules in the Oregon statutes and the Columbia County ordinance as they exist now and as they may be amended in the future."

However, there may be some areas that you may want to consider from the City of Rainier point of view. Some of the provisions in the model ordinance could be utilized. I refer generally to Section 4 - Operations. These provisions deal with local matters that are within the purview of the city.

Section 5 of the model ordinance is unnecessary and should not be adopted. They are within the purview of the state and the county and deal with health standards, inspections and enforcement - all things the county health department is required to do.

Sections 1 and 2 are not objectionable as they deal with preliminary things. However, the definition of "Food Vending Vehicle" may not be broad enough as it would exclude food trailers as they are not motorized.

Section 3 should be refined to delete provisions about having a driver's license (para C) and para E regarding health inspection. This sounds like the city would be doing this

inspection. A provision that states the applicant must receive, pass and obtain a health certificate from the county before the city issues its permit would be appropriate.

I will be unable to attend the November meeting of the Planning Commission and would ask that this memo and attachment be provided to them for use at the meeting.

Thank you for your consideration and allowing me to make these comments.

Respectfully submitted

Lucas and Associates, LLC

Robert A. Lucas

Enclosure

cc: Roberta Boursaw, client

COMMISSARIES, MOBILE UNITS AND VENDING MACHINES

624.310 Definitions for ORS 624.310 to 624.430. As used in ORS 624.310 to 624.430 unless the context requires otherwise:

- (1) "Approved" means approved by the administrator.
- (2) "Authority" means the Oregon Health Authority.
- (3) "Commissary" means commissary catering establishment, restaurant or any other place in which food, beverage, ingredients, containers or supplies are kept, handled, prepared or stored, and from which vending machines or mobile units are serviced.
- (4) "Director" means the Director of the Oregon Health Authority.
- (5) "Employee" means any operator or any person employed by an operator who handles any food, beverage, or ingredient to be dispensed through vending machines or mobile units, or who comes into contact with product contact surfaces of the container, equipment, utensils or packaging materials, used in connection with vending machines or mobile unit operations, or who otherwise services or maintains one or more such machines or units.
- (6) "Food" means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use in whole, or in part, for human consumption.
- (7) "Machine location" means the room, enclosure, space or area where one or more vending machines are installed and are in operation.
- (8) "Mobile unit" means any vehicle on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.
- (9) "Operator" means any person, who by contract, agreement or ownership is responsible for operating a commissary or warehouse or furnishing, installing, servicing, operating or maintaining one or more vending machines or mobile units.
- (10) "Person" means any individual, partnership, corporation, company, firm, institution, association or any other public or private entity.
- (11) "Product contact surface" means any surface of the vending machine or mobile unit, appurtenance or container which comes into direct contact with any food, beverage or ingredient.

(12) "Readily perishable food" means any food, beverage or ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry, or any other food capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications. However, "readily perishable food" does not include products in hermetically sealed containers processed by heat to prevent spoilage or dehydrated, dry or powdered products which are so low in moisture content as to preclude development of microorganisms.

(13) "Single-service article" means any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

(14) "Utensil" means any kitchenware, tableware, glassware, cutlery, container, cleaning brush or other equipment that comes into contact with food or product contact surfaces during cleaning of vending machines, mobile units or commissary equipment, or during storage, preparation, serving, dispensing or consumption of food.

(15) "Vending machine" means any self-service device offered for public use which, upon insertion of a coin, coins, currency or token, or by other means, dispenses unit servings of food or beverage, either in bulk or package, without the necessity of replenishing the device between each vending operation.

(16) "Warehouse" means any place where food, utensils, single-service articles, cleaning or servicing supplies for vending machines, mobile units or commissaries are stored. [1963 c.575 §1; 1973 c.825 §13; 1975 c.792 §2; 2001 c.900 §212; 2001 c.975 §5; 2009 c.595 §1018]

624.320 License requirement for commissary, warehouse, mobile unit or vending machine; notice of mobile unit movement. (1) A person may not operate a vending machine, warehouse, commissary or mobile unit without first procuring a license to do so from the Oregon Health Authority. The operator shall post the license in a conspicuous place in the warehouse or commissary. The operator shall affix a card, emblem or other device clearly showing the name and address of the licensee and the serial number of the license to each vending machine or mobile unit as the case may be.

(2) Application for the license shall be in writing in the form prescribed by the authority and shall contain the following information:

(a) Name and address of the applicant.

(b) Location of all warehouses or commissaries.

(c) Locations where supplies are kept.

(d) Locations where vending machines or mobile units are stored, repaired or renovated.

(e) Identity and form of food to be dispensed through vending machines.

(f) Number of each type of vending machine on location.

(3) The operator must keep the specific locations of the vending machines and specific itineraries of the mobile units on file at the operator's business office and readily available to the authority. If the mobile unit is moved to a delegate county other than a delegate county that licensed the mobile unit, the operator shall notify the local health department for the county to which the mobile unit is moved prior to operating the mobile unit within that county. The operator shall furnish the authority with written details of the conversion of any vending machine to dispense products other than those for which the license was issued. [1963 c.575 §2; 1973 c.825 §14; 2001 c.104 §244; 2001 c.975 §6; 2003 c.672 §1; 2009 c.595 §1019]

624.330 Exemption of certain commissaries, mobile units and vending machines from licensing requirements; rules. (1) Vending machines dispensing only ball chewing gum, nutmeats and the following prepackaged foods: Candy, chewing gum, nutmeats, potato chips, pretzels, popcorn, cookies, crackers and bottled or canned soft drink beverages shall be exempt from the provisions of ORS 624.320 and 624.430.

(2) The Oregon Health Authority may, by rule, exempt certain other types of vending machines from the license requirements of ORS 624.310 to 624.430 when it appears that there is no danger to the life and health of the people of this state.

(3) The provisions of ORS 624.310 to 624.430 do not include commissaries, mobile units or vending machines which are presently licensed and inspected by the State Department of Agriculture or United States Public Health Service. [1963 c.575 §§7,15; 1973 c.825 §15; 2009 c.595 §1020]

624.340 [1963 c.575 §4; 1973 c.825 §16; 2009 c.595 §1021; renumbered 624.415 in 2009]

624.350 [1963 c.575 §5; repealed by 1973 c.825 §23]

624.355 Rules. The Oregon Health Authority shall make reasonable rules for carrying out the provisions of ORS 624.310 to 624.430, including but not limited to the following:

- (1) Construction and operation of commissaries, mobile units and vending machines.
- (2) Water supply adequate in quantity and safe for human consumption.
- (3) Disposal of sewage, refuse and other wastes in a manner that will not create a nuisance or health hazard.
- (4) Cleanliness of premises and facilities.
- (5) Refrigeration of perishable foods and the wholesomeness of all food and beverage ingredients.
- (6) Protection of food, utensils, wrapping and serving materials against dust, dirt and contamination.
- (7) Equipment of proper construction and the maintenance of such equipment.
- (8) Approved plumbing.
- (9) Sanitary facilities for employees in commissaries.
- (10) Control and exclusion of insects and rodents.
- (11) Labeling of foods or beverages.
- (12) Exclusion of vending machines dispensing chemicals, sanitizers, detergents, economic poisons and such other compounds of similar nature from immediate areas where food and beverage vending machines are located.
- (13) Approval of plans for commissaries, mobile units and vending machines. [Formerly 624.390]

624.360 [1963 c.575 §6; repealed by 1973 c.825 §23]

624.370 Inspection of commissary, warehouse, mobile unit or vending machine; report of Director of Oregon Health Authority; hearing. (1) At least once every six months, the Director of the Oregon Health Authority shall inspect every commissary and warehouse, and a representative number of each operator's mobile units and vending machines. The director shall be granted access at reasonable times to all parts of the

commissary and shall have access, either in the company of an employee or otherwise, to the interior of all vending machines or mobile units of the operator at such times as the director considers necessary to ensure compliance with the provisions of ORS 624.310 to 624.430.

(2) Samples of food, drink and other substances may be taken and examined by the director as often as may be necessary for the detection of unwholesomeness or adulteration. The director may condemn and prohibit the sale of or cause to be removed or destroyed, any food or drink which contains any toxic, contaminated, filthy, putrid, decomposed or diseased substance or if it is otherwise unfit for human consumption.

(3) One copy of the inspection report shall be posted by the director upon an inside wall of the commissary or placed in the mobile unit. The inspection report shall not be defaced or removed by any person except the director. A copy of the inspection report on vending machines shall be sent to the operator. Another copy of each inspection report shall be filed with the records of the Oregon Health Authority.

(4) If the director discovers the violation of any provision of ORS 624.310 to 624.430 or any rule promulgated thereunder, the director shall make a second inspection after the lapse of such time as the director considers necessary for the defect to be remedied.

(5) If a violation is of a nature so as to constitute a danger to the health of the people of this state, the director may order immediate closure of the commissary, mobile unit, or vending machine and shall, within 24 hours of the time of inspection, mail to or serve personally on the licensee a copy of the inspection report signed by the director showing thereon the particular facility closed and the reason. The director shall, if requested, hold a hearing in accordance with ORS chapter 183. [1963 c.575 §8; 1973 c.825 §17; 1975 c.792 §2; 2009 c.595 §1022]

624.380 [1963 c.575 §9; 1973 c.825 §18; 2009 c.595 §1023; renumbered 624.425 in 2009]

624.390 [1963 c.575 §10; 1973 c.825 §19; 2009 c.595 §1024; renumbered 624.355 in 2009]

624.400 Rating surveys; preparing and disseminating information; cooperation with local health departments in educational programs. The Oregon Health Authority shall make such surveys as are necessary to obtain uniform enforcement of ORS 624.310 to 624.430 throughout the state and shall prepare and disseminate information and shall cooperate with and assist local health departments in educational programs for the

purpose of encouraging compliance with ORS 624.310 to 624.430 on the part of operators and employees of vending machines and mobile units. [1963 c.575 §12; 1973 c.825 §20; 2009 c.595 §1025]

624.410 Commissaries and sources of supply outside jurisdiction. (1) Foods from commissaries or other sources outside the jurisdiction of the Oregon Health Authority may be sold in the local jurisdiction if such commissaries or other sources of supply conform to the provisions of ORS 624.310 to 624.430 and the rules promulgated under ORS 624.310 to 624.430 or to substantially equivalent provisions.

(2) The authority shall investigate and survey the system of regulations in effect for commissaries or sources of supply outside the state. Upon determination that the regulations in effect are of a quality substantially equal to the rules of ORS 624.310 to 624.430, the authority may permit such commissaries or sources of supply to be used in the state. [1963 c.575 §11; 1973 c.825 §21; 2009 c.595 §1026]

624.415 Denial, suspension or revocation of license. The Director of the Oregon Health Authority may deny, suspend or revoke a license in accordance with ORS chapter 183 in any case where the director finds that there has been a substantial failure to comply with the provisions of ORS 624.310 to 624.430 or the rules promulgated under ORS 624.310 to 624.430. [Formerly 624.340]

624.420 Abating or enjoining violations of ORS 624.310 to 624.430. Any commissary, mobile unit or vending machine operated contrary to the provisions of ORS 624.310 to 624.430 is a public nuisance and dangerous to health and may be abated or enjoined in the manner provided by law. [1963 c.575 §14]

624.425 Diseased persons working in commissary or mobile unit; suspicion of possible transmission of infection. (1) A person who is affected with a communicable disease described in ORS 624.080 (1) or is a carrier of such disease may not work in any commissary, mobile unit or in the servicing of vending machines, nor may any operator employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the operator suspects that any employee has an infectious disease in a communicable form or may be a carrier of such a disease, the operator shall notify the Director of the Oregon Health Authority immediately. A placard containing this section shall be posted in all toilet rooms.

(2) When, in the opinion of the director, there is a possibility of transmission of infection from any person or employee, the director may require the immediate exclusion of such person or employee from all commissaries, mobile units and vending machines and may require a medical examination of the person or employee and associates of the person or employee, including such laboratory examinations as may be indicated. [Formerly 624.380; 2011 c.9 §81]

624.430 Fee payment; rules. (1) Except as provided in ORS 624.330, every applicant for a license to operate a commissary, vending machine, warehouse or mobile unit shall pay to the Oregon Health Authority the appropriate annual fee set forth in ORS 624.490.

(2) All licenses issued under ORS 624.320 expire annually on a date set by authority rule. A license is not transferable. The authority may not issue a refund representing any unused portion of a license. The authority may not refund fees submitted with applications that have been denied. [1963 c.575 §3; 1973 c.182 §3; 1975 c.526 §6; 1979 c.696 §13; 1983 c.352 §2; 1995 c.578 §6; 2001 c.975 §7; 2003 c.309 §13; 2009 c.595 §1027]

Oregon Health Authority

Public Health Division - Chapter 333

Division 162

MOBILE FOOD UNITS, COMMISSARIES AND WAREHOUSES

333-162-0020

Mobile Food Units, General Requirements

(1) Mobile food units shall comply with the applicable requirements in OAR 333-150-0000 and these rules. The Authority may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit operation and may prohibit the sale of potentially hazardous food.

(2) There are four types of mobile food units:

(a) Class I. These mobile food 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 must be provided from covered urns or dispenser heads only. No dispensed ice is allowed;

(b) Class II. These mobile food 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 foods is not allowed. Preparation, assembly or cooking of foods is not allowed on the unit;

(c) Class III. These mobile food units may serve any food item allowed under Class I and II mobile food units, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal foods on the unit is not allowed;

(d) Class IV. These mobile food units may serve a full menu.

(3) Mobile food units must be maintained and operated as originally designed and approved during the plan review process. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.Pf

(4)(a) Mobile food units must be designed and constructed to move as a single piece. Mobile food units may not consist of multiple components that are assembled at the operating location. This requirement applies to mobile food units designed, constructed or extensively remodeled after February 1, 2020.Pf

(b) Notwithstanding subsection (4)(a) of this rule, a mobile food unit that must be assembled at the operating location because the unit will be in a building or structure that prevents the unit from being moved in one piece may be allowed if the assembly is part of the initial licensing process. Examples of this include a unit located in the upper floors of a high-rise building that cannot be transported through the front entrance or in an elevator.

(5) Notwithstanding OAR 333-150-0000 Section 5-305.11 (D) and subsections (a) and (b) of this section, all operations and equipment shall be an integral part of the mobile food unit. A mobile food unit may use folding shelves or small tables that are integral to the unit for display of non-potentially hazardous condiments and customer single use articles. The shelves or small tables must be designed and installed so that they do not impede the mobility of the unit when retracted.Pf

(a) A Class IV mobile food unit may use one cooking unit that is not integral to the mobile food unit. The cooking unit, may only be used under the following conditions:Pf

(A) The cooking unit must be limited to the use of a barbecue, smoker, hearth oven or similar cooking device that can be transported in conjunction with the mobile food unit. The use of equipment such as flat-top grills or griddles, woks, steamtables, stovetops, ovens or other cooking, storage or holding devices is not allowed.Pf

(B) It must be located adjacent to the mobile food unit;Pf

(C) The cooking unit may only be used for cooking and not for processing, portioning, preparation, or assembly of food;Pf and

(D) A handwashing system shall be provided adjacent to the cooking unit as specified in OAR 333-150-0000 section 5-203.11(C).Pf

(b) Mobile food units may display packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if they are limited to what could be sold during a typical meal period.

(6) Mobile food unit operators may provide seating for customers if a readily accessible restroom and sufficient refuse containers with lids or covers are provided. The restroom must have a handwashing facility that provides hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11.

(7) Auxiliary storage may be provided if it is limited to impervious, nonabsorbent and covered containers that are stored and located in a manner to preclude contamination or infestation. Overhead protection may be required if necessary to protect auxiliary storage from contamination.Pf

(a) Auxiliary storage must be limited to items necessary for that day's operation and must be moved from outside the unit and stored inside the unit or at a licensed warehouse or commissary during hours the unit is not in operation.Pf

(b) No self-service, assembly or preparation activities may occur from auxiliary storage containers. Auxiliary storage may not be used as a substitute for hot and cold holding facilities on the mobile food unit.Pf

(c) Refrigerators or freezers used for auxiliary storage may not be placed outside of the unit and must be located inside a licensed commissary or warehouse. An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.Pf

(d) Units licensed prior to February 1, 2020 must meet the requirements of section (7) by January 1, 2023.Pf

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 7-1994, f. & cert. ef. 2-24-94

[333-162-0030](#)

Mobile Unit Operation, General

(1) Mobile food units must remain mobile at all times during operation. The wheels must be functional and appropriate for the type of unit and not be removed from the unit at the operating location. A removable tongue may be allowed if the tongue can be removed with the use of only simple tools and the tools are available on the unit at all times. Units licensed prior to February 1, 2020 in which the wheels, axels and associated equipment were removed prior to that date are not required to meet this requirement.Pf

(2) A mobile food unit may not be used in lieu of a properly designed and constructed kitchen for a restaurant or other food service establishment.P

(3) Catering and Delivery:

(a) Except as provided in subsection (c) of this section, a mobile food unit that does not have a licensed restaurant or commissary as a base of operation may not provide catering services or sell food wholesale.P

(b) Mobile food units must sell or dispense food directly from the point of sale on the unit to the ultimate consumer.Pf

(c) A mobile food unit that does not have a licensed restaurant or commissary as a base of operation may provide catering services if:P

(A) The unit is equipped with commercial-grade refrigeration equipment that meets or is the equivalent to the requirements of OAR 333-150-0000 Section 4-205.10;

(B) The unit has obtained a variance from the Oregon Health Authority; and

(C) The unit provides only single-use articles for use by consumers.

(d) Mobile food units may utilize third-party delivery services and offer online ordering through the Internet.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 7-1994, f. & cert. ef. 2-24-94

333-162-0036

Mobile Food Units Operating as Single-Event Temporary Restaurants

A licensed mobile food unit operating as a single-event temporary restaurant as specified under ORS 624.650 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. The unit may also utilize off-unit freezers if the food is maintained frozen as required in OAR 333-150-0000 Section 3-501.11. 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. The display or dispensing of potentially hazardous foods is not allowed.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, adopt filed 01/30/2020, effective 02/01/2020](#)

333-162-0040

Base of Operation

(1) Mobile food units and vending machines shall operate from a licensed restaurant, commissary or warehouse.P

(2) If a mobile food unit sells only packaged goods, a warehouse may be accepted in lieu of a commissary.

(3) Notwithstanding section (1) of this rule, self-contained mobile food units may not be required to have a base of operation if 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.
- (4) The ability to operate without a base of operation shall be determined by the regulatory authority.
- (5) A mobile food unit may not serve as a commissary or warehouse for another mobile food unit.
- (6) A private home kitchen or a home kitchen licensed by the Oregon Department of Agriculture may not be used as a commissary.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 17-1993, f. & cert. ef. 10-14-93

HD 20-1986, f. 12-22-86, ef. 2-2-87

[333-162-0280](#)

Food Transportation, General

- (1) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package is sealed.
- (2) Food shall be maintained at required temperatures at all times during transport. Mobile food units that do not maintain food at temperatures required in OAR 333-150-0000 section 3-501.16 may be required to provide an on-board power source, such as a battery or generator, to assure maintenance of food at proper temperatures during transit.
- (3) After February 1, 2020, mobile food units that serve a complex menu and have never been 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.
- (4) Transport vehicles shall not be used in activities incompatible with safe and sanitary food service operations.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

[333-162-0680](#)

Exterior and Overhead Protection

- (1) Mobile food units must be secured and protected from contamination when not in operation. This exterior protection may consist of moving the unit to an enclosed location, closing all exterior openings or covering the unit in a secure fashion. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.

(2) Overhead protection shall be provided for mobile food units that are operated outdoors and where food is not covered at all times. The overhead protection may consist of, but not be limited to, roofing, ceilings, awnings, or umbrellas. Overhead protection is not required for cooking units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

333-162-0880

Licensing Procedure

(1) All procedures shall be in accordance with ORS chapter 624 in the licensure of mobile food units, commissaries and warehouses. Any license issued by the Authority pursuant to ORS 624.320 shall expire and may be reinstated on December 31 of each year.

(2) A permanent license number shall be assigned each operator of mobile food units by the regulatory authority.

(3) Each mobile food unit shall be clearly marked with the licensee's name or a distinctive identifying symbol. The lettering shall be at least two inches in height and of a color contrasting with the background color. If a symbol is used, it shall be at least 12 inches in diameter or of an equivalent size. An accurate scale drawing or photograph of the symbol shall be filed with the regulatory authority.

(4) Each mobile food unit shall be clearly marked with a number for purposes of identifying each unit on inspection reports and other communications.

(5) Stored units are not subject to licensure.

(6) All vehicles used as mobile food units shall be kept in good repair and in a sanitary condition while in use.

(7) The license shall be posted in the mobile food unit in public view.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

333-162-0890

Inspection and Enforcement Procedures

Mobile food units shall comply with the inspection and enforcement procedures in OAR 333-157-0000, 333-157-0010, 333-157-0020, 333-157-0025, 333-157-0027, 333-157-0030 and 333-157-0040.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

[333-162-0920](#)**Plan Review**

(1) Newly constructed or extensively remodeled mobile food units, commissaries and warehouses must undergo plan review and a pre-operational inspection. Mobile food units that have been modified after plan review approval or licensing may be required to revert to the design and construction that was initially approved if required by the regulatory authority. Mobile food units having the sanitary approval of a recognized qualified, independent testing laboratory, or approved by the Authority may be accepted without the submission of plans.Pf

(2) Approval from the administrator to operate after the plan review process does not preclude obtaining required permits or approvals from other agencies or jurisdictions of concern.

(3) Mobile food unit operators must obtain approval from the administrator to add to or change menu items served from the mobile food unit;P

(4) Mobile food units that operate on a fixed route must provide an itinerary to the regulatory authority prior to licensure and at the beginning of each licensing period. Mobile food units operating at specific or multiple locations shall provide a list of all locations to the regulatory authority.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

[333-162-0940](#)**Warehouses**

(1) A licensed warehouse may be used only for the storage of unopened packaged foods, single-service articles, utensils and equipment. All other activities are prohibited.Pf

(2) A warehouse may not be used for the following activities:

(a) Cooling or storage of foods that have been prepared on a mobile food unit;

(b) Preparation, assembly, portioning, handling or service of unpackaged foods; and

(c) Ice making or warewashing;

(3) Activities prohibited in a warehouse in this section must be conducted in a licensed restaurant or commissary.

(4) Warehouses shall be required to meet only those rules necessary to prevent the contamination of stored foods, single-service articles, utensils and equipment. In general, warehouses shall be exempt

from the rules relating to finished walls, ceilings or storage bases, light colored surfaces, restrooms, lavatories and utility facilities, provided foods are protected from contamination from dust, insects, rodents, flooding, drainage, or other contaminants.

(5) An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.

(6) The Assistant Director may impose additional requirements as deemed necessary to prevent the contamination of stored foods, single-service articles, utensils, and equipment.

(7) A warehouse licensed prior to February 1, 2020 that is not in compliance with the provisions of this rule must meet these requirements by January 1, 2023.

Statutory/Other Authority: ORS 624.355

Statutes/Other Implemented: ORS 624.355

History:

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

333-162-0950

Memorandum of Commissary or Warehouse Usage/Verification

A Memorandum of Commissary or Warehouse Usage/Verification shall be on file with the administrator for mobile units using a licensed food service facility as a commissary or warehouse. This memorandum shall be on a form approved by the Authority, and be updated at least once per year.

Statutory/Other Authority: ORS 624.390

Statutes/Other Implemented: ORS 624.390

History:

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

333-162-1005

Civil Penalties

(1) The Authority or a Local Public Health Authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a mobile food unit, commissary, or warehouse without a current license to do so from the Authority or Local Public Health Authority;

(b) Failure to cease operation of a mobile food unit, commissary, or warehouse that has been closed due to uncorrected priority item violations. This authority shall be limited to those priority item violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 section 1-201.10(B).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is \$500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS Chapter 183 or the equivalent.

Statutory/Other Authority: ORS 624.992

Statutes/Other Implemented: ORS 624.992

History:

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

Robert A. Lucas

Kim A. Lucas*

*of counsel
Oregon & Washington

LUCAS & ASSOCIATES, LLC
ATTORNEYS & COUNSELORS AT LAW

P.O. BOX 519
RAINIER, OR 97048-0519
(503) 556-3741
FAX (503) 556-0708
lucasatty@yahoo.com

March 25, 2020

Mayor and Rainier City Council
City Hall
PO Box 100
Rainier, OR 97048

Re: Boursaw Food Truck

Dear Mayor and Council Members:

I am writing to you on behalf of my client, Roberta Boursaw, regarding her food truck and her business license to operate with it in the City of Rainier.

I have reviewed all the applicable law to include the Oregon statutes, the county ordinances and the Rainier Ordinance #1058 establishing regulations for transient merchants. My review has concluded that my client has the right to operate her food truck in Rainier for which she has already applied and received a business permit from the city.

Apparently at the city council meeting she attended, there were comments that her food truck may take away business from downtown establishments which was not favored by some council members. This is absolutely the wrong attitude for Rainier to take and suggests favoritism and cronyism. New merchants should be welcomed not discouraged. To suggest that she could not operate her business until you adopt a food truck ordinance sometime in the future is wrong and very negative on those on the council that take that position. Most cities in the area including St. Helens do not have a "food truck ordinance" nor do they need one.

As you know my client has been licensed and inspected by the Columbia County authorities who by state statute have been delegated by the State of Oregon to license, regulate and inspect food trucks such as my client owns and operates. I suggest that you do not have the right to duplicate what the county already does. You also know that she regularly operates her food truck in the City of Astoria without any unnecessary city involvement other than a business license.

Your transient merchant ordinance referred to above adequately protects the city and its inhabitants. She applied for and received her business permit under this ordinance before a city employee with directions from one or more of you tried to wrongfully revoke it. She will not operate her food truck in Rainier over 5 days per week or 90 days per year unless you adopt a food truck ordinance which allows her to operate it more. She will comply with

the terms of your ordinance, has paid the fee and received her license. She has not accepted your attempted revocation by a city employee and will return to you uncashed the license fee check which your staff mailed to her.

I have directed that she is in compliance with the law and that she has the right to operate her food truck business at this time. I believe that she will shortly open it up as planned and will run her business properly which will be a benefit to the people of Rainier and the surrounding area - particularly in this time of need with the restrictions placed on all of us because of the pandemic now under way. An additional take out food source is sorely needed and could not be more timely. I hope you agree.

However, if you wrongfully attempt to shut her down, you will find yourself in court with a request for an injunction and for her damages and court costs which could be substantial if it drags out. I suggest that you should consult with your attorney or attorneys before you attempt any such action. While my client wants to work within the law with you and be a responsible local business person, she does not intend to let you push her around without cause.

Please advise if you have any questions.

Very truly yours,

Lucas & Associates, LLC

Robert A. Lucas

cc: Stephen D. Petersen, City Attorney
Client

WEST 80.00 CH 020

75972

75942

400
8.64 Ac.

300
83.31 Ac.

75900

SEE

7

75901

10/2/62

200
52.50 Ac.

200

1000
27.57 Ac.

900
38.74 Ac.

13-07

NGVIEW

LINE

OPERATED

EAST MENT
AS ST. JOHNS

ST. JOHN
LONGVIEW

200

AP

27421

901
47.3 Ac.

27525

CRK

2521

PARK DATE

Planning Commission Priorities

Long-Term

UGB expansion

Transportation System Plan

Code updates

Comprehensive plan amendment

Issues to Consider

Flood plain ordinance update

Mixed use

Zombie houses

Senior housing

ADUs