

ORDINANCE NO. 2363

AN ORDINANCE AMENDING CHAPTER 116 OF THE HERMISTON CODE OF ORDINANCES RELATING TO MOBILE FOOD VENDORS.

WHEREAS, the staff of the City of Hermiston is conducting a major review of the City's Code of Ordinances, and now, therefore,

THE CITY OF HERMISTON ORDAINS AS FOLLOWS:

(New language is in red and underlined and repealed language has a ~~line through it.~~)

Section 1. Section 116.01 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.01 DEFINITIONS.

As used in this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning:

APPROVED LOCATION. A site approved by the city from which a licensee may operate.

CONSENT TO USE AGREEMENT. A fully filled out agreement from a lawful possessor of the property on which the licensee proposes to operate, which specifically states the name, address, telephone number and email of the possessor, the location of the property, how long the licensee may use the property for its operation, any other terms imposed by the possessor of the property consistent with this chapter and states that the proposed licensee is entitled to use the location.

FOOD POD. A designated site containing four or more mobile food units, communal seating, and restroom facilities on public or private property.

LUNCH TRUCK. A mobile food unit consisting of a self-propelled and self-contained van used to prepare or process and sell food primarily to the employees or workers at a construction site, office or industrial building, industrial park or similar site.

MOBILE FOOD UNIT. Any vehicle, trailer or other conveyance that is self-propelled, or can be pulled or pushed down a street or highway. Food may be prepared or processed on this unit, and the unit is used to sell and dispense food to the ultimate consumer.

MOBILE FOOD VENDOR. Any person(s), entity(s) or other parties who sell food from any vehicle, trailer or other conveyance which is self-propelled, or which can be pulled or pushed down a sidewalk, street, or highway and is required to have a Class II, III, or IV mobile food unit license as defined by Oregon statutes and administrative rules and modifications thereof.

TEMPORARY RESTAURANT. Any person(s), entity(s) or other parties who sell food from any tent, stand, or other temporary structure and is required to have a temporary restaurant license from the Oregon Health Authority.

VENDING YEAR for mobile food units, other than lunch trucks, is from April 1 of one calendar year through March 31 of the following calendar year.

Section 2. Section 116.02 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.02 LICENSE REQUIRED.

(A) It shall be unlawful for any person to operate a mobile food unit **or temporary restaurant** in city limits without first procuring a license from the city unless an exemption applies.

(B) The City shall classify mobile food vending licenses as follows:

- (1) *Type 1 License:* A food vendor operating from a self-contained pushcart, truck, trailer, or similar conveyance and approved by Umatilla County Health. A Type 1 license is valid for 30-days at any one location. The site must be completely vacated between the hours of 10 pm and 6 am each day.
- (2) *Type 2 License:* A food vendor operating from a self-contained truck or trailer and approved by Umatilla County Health. A Type 2 license is valid for one year and may be renewed for the same location. The site must be completely vacated for 24 hours at least once every seven days.
- (3) *Type 3 License (Event License):* A license issued to an Oregon Health Authority permitted temporary restaurant or mobile food unit to serve the attendees of a specified temporary non-recurring street fair, festival, carnival, or similar community event. A temporary event is one lasting not more than seven calendar days. No more than one temporary event license shall be issued for the same, or substantially same, event, on or near the same location in each calendar year. An Event license is subject to the requirements of §116.10 of this chapter.
- (4) *Type 4 License (Lunch Truck License):* A food vendor operating from a self-contained truck or trailer and primarily serving the workers and employees on the site, with only incidental sales to the general public. A lunch truck license is subject to the requirements of §116.11 of this chapter.

(B) The license holder must personally operate the mobile food unit or directly supervise employees or family who work for the license holder. No other person may have any ownership, lease, or other rights to the business of any kind or nature.

(C) No person shall be issued more than one mobile food vendor license. A mobile food vendor may also hold a lunch truck license or obtain a short-term or event license. For purposes

of LLCs, corporations, or other entity ownership, no entity shall be issued a license if a principal of the entity holding a license holds a personal license or is a principal or has an ownership interest in another entity holding a license.

Section 3. Section 116.03 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.03 LICENSE APPLICATION AND ISSUANCE.

(A) The application for the license shall be in writing in the form prescribed by the city containing the following information:

- (1) Name, address, phone number and email of the applicant. Entity applicants shall provide the name and address of all principals and the name and address of a person designated to supervise operation of the mobile food unit.
- (2) A copy of the state approved Class II, III or IV mobile food unit license issued to the applicant for the vending year.
- (3) The mobile food unit's proposed operating schedule.
- (4) A copy of the title and registration of the mobile food unit to be used by the applicant, including trailers, if they are required to be licensed and registered. The title and registration must be in the name of the applicant.
- (5) Except as provided in § [116.10](#), a detailed site plan of the proposed location as required by § [116.07](#) ~~[116.06](#)~~, showing the exact location of the unit on the site, paved parking, access to and from the site, location of any power service to the unit, location of buildings and improvements on the site, the address or the County Assessor's map and tax lot for the site, and other particulars required by the city.
- (6) Except as provided in § [116.10](#), a "Consent to Use Agreement" signed by the owner of the property on which the mobile food unit is proposed to be located.
- (7) Payment in full of the application and license fee established by the city.
- (8) Such other information as the City Manager or designee deems appropriate to evaluate compliance with the requirements of this section.
- (9) A statement that the applicant has read, understands and agrees to comply with the provisions of this chapter.

(B) The city will conduct a preliminary review of the application. If the city concludes that the application preliminarily complies with all requirements of this chapter, the applicant shall bring the mobile food unit to a place designated by the city for an inspection to determine if it meets the requirements of this chapter.

(C) If compliance with all requirements of this chapter is demonstrated, the city shall grant the license with any modifications required by the city. If the city denies the application, it shall refund the license fee.

(D) The city will commence processing the applications for mobile food units licenses no earlier than 90 days prior to the next vending year. Lunch truck and short-term applications may be submitted at any time during the calendar year.

(E) Notwithstanding subsections (A)(5) and (6) of this section, the applicant may obtain a conditional license without an approved location or consent to use agreement. The conditional license shall not authorize operation but otherwise is valid for 45 days. The conditional license shall expire if the conditional licensee fails to obtain city approval of a location and consent to use agreement within 45 days. The city may, in its discretion, extend the period of the conditional license for good cause beyond the reasonable control of the conditional licensee on request filed before expiration.

(F) The licensee shall post the license or card in a conspicuous place on the mobile food unit clearly showing the name and address of the licensee and license number.

Section 4. Section 116.05 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.05 LIMIT ON AVAILABLE LICENSES.

(A) ~~Except as otherwise provided in this chapter, the maximum number of mobile food unit licenses is six.~~ The maximum number of licenses shall be as follows:

(1) The maximum number of Type 1 licenses shall be three

(2) The maximum number of Type 2 licenses shall be six

(3) The maximum number of Type 3 licenses shall be unlimited

(4) The maximum number of Type 4 licenses shall be two

(B) Applications for licenses shall be processed in the order received, except that applications for renewal shall take precedence.

(C) A person may by letter request to be placed on a waiting list to submit an application. If the number of licenses drops below the maximum permitted and there are no active license applications or renewals pending, the city will notify the person who is next on the list in writing. The person will have 30 days to file an application.

(D) Nothing in this chapter precludes the City Council, by ordinance, from increasing or decreasing the number of available licenses at any time.

Section 5. Section 116.06 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.06~~[RESERVED]~~ FOOD PODS

(A) A food pod may be located on any commercially zoned property within the city subject to the following site requirements:

- (1) All mobile food units shall be located on a hard surface consisting of concrete, asphaltic cement, or similar surface.
- (2) Parking shall be provided at a ratio of one space per mobile food unit plus parking for any communal seating area as required in §157.176 for eating and drinking establishments.
- (3) Mobile food vendors shall not create tripping hazards in pedestrian and vehicular circulation areas with items including but not limited to, cords, hoses, pipes, cables, or similar materials.
- (4) Development of a food pod shall be considered a land use action and subject to all requirements of Chapter 157 of the Hermiston Municipal Code.
- (5) Mobile food units within a food pod are not subject to the licensing requirements of this chapter and are subject to the business licensing requirements of the City of Hermiston.
- (6) Mobile food units within a food pod are not required to vacate the premises as required in §116.08 of this chapter.

Section 6. Section 116.07 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.07 APPROVED LOCATION.

(A) A mobile food unit may only operate from an approved location which meets the criteria established in this chapter.

(B) ~~No new application will be approved that is 400 feet or less from any other mobile food unit as measured from the closest property line of each approved location. Vendors in operation on September 9, 2013, however, may continue to operate, including on renewal, in their existing location regardless of whether the location is 400 feet or less from another vendor existing on September 9, 2013.~~ Type 1, Type 2, and Type 4 vendors shall be located entirely on private property. Type 3 licenses operating in conjunction with an event may be located on public right of way with permission from the City.

(C) ~~Sufficient paved parking immediately adjacent to the mobile food unit of at least three paved parking spaces specifically designated for the use by the mobile vending unit.~~ A mobile unit shall only operate in an approved parking lot, or other hard surface area, where the off-street parking requirements for all uses or activities served by the off-street parking area are met.

(D) ~~The mobile food unit and its paved customer parking spaces must be located at least 20 feet from the property line of an adjoining property owner unless the possessor of the adjoining property consents, in writing, to allow the mobile food unit and its paved customer parking to be closer to the adjoining property.~~ The mobile food unit shall be located at least 100 feet from any residential use as measured from the mobile food unit to the nearest residential property line.

(E) ~~A mobile food unit must be located more than 400 feet from the property line of a business having a restaurant license, except for the existing locations of a licensed mobile food unit operating on January 1, 2019.~~ The mobile food unit shall not be located within any vision clearance area as defined in §157.142 of the Hermiston Code of Ordinances.

(F) The property, mobile food unit and lunch truck location shall not present a safety risk to pedestrians or vehicles and not adversely affect access and parking for the employees and customers of adjoining property owners.

(G) If after approving a location, the city determines, in its reasonable discretion, that the approved location, including the location of the unit or lunch truck, presents a safety hazard due to changed conditions, it may withdraw or modify the approved location. Absent exigent circumstances, the licensee shall have a minimum of 60 days to relocate.

(H) Approved Type 1 and Type 2 mobile food unit locations are limited to any commercial zone of the city; provided, that all requirements within this chapter or the zoning code are met. Type 4 vendors may also locate in any industrial zone to provide lunch service to industrial employment centers. A Type 4 vendor may locate in any residential zone to provide lunch service to active residential construction projects.

Section 7. Section 116.08 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.08 OPERATION AND SITE REQUIREMENTS.

Mobile food vendors must, at all times, comply with the following requirements:

- (A) Awnings attached to the mobile unit are allowed but no poles, supports or guy wires to the ground may be attached to the awning.
- (B) At least one 35-gallon trash receptacle with a tilting lid must be provided for the patrons of the mobile food vendor and must be emptied when three-fourths full.
- (C) The site must be kept free and clear of all trash and debris.

(D) No tables, tents, shades, chairs or other similar property for use of the mobile food vendor or its patrons is allowed.

(E) No gas, propane, natural gas, water tanks or other property may be placed on the ground at any time. The mobile food vending unit must be fully self-contained.

(F) No receptacles for gray water may be placed on the ground or used to collect water. All water produced by the unit must be contained in the unit.

(G) Condensate from refrigerated air conditioner units or other HVAC units may be allowed to run onto the ground.

(H) No swamp coolers or units which use water for cooling may be used.

(I) No water lines or sewer lines may run to or from the unit.

(J) The area where the unit is sited, its accesses and parking must all be paved.

(K) The mobile food vendor's restaurant license must be displayed on the unit at all times in a glass window of the unit or as otherwise required by Oregon law so it can be read from outside.

(L) The mobile food vendor's license must be displayed on the unit at all times in a glass window of the mobile food unit so it easily can be read from the outside.

(M) The vehicle registration of the mobile food unit must be displayed on the unit at all times in a glass window of the unit so it can be read from the outside. The registration must be current and valid.

(N) Mobile food units may only be driven or towed by a person possessing a valid driver's license.

(O) Type 2 mobile food units and lunch trucks must shall be mobile and must shall be moved onto private property more than 400 feet away from their approved location or to another site that is less than 400 feet away if it is parked behind a sight-obscuring fence so it is not visible in any manner from a public street or from the approved location it uses. Type 2 units shall vacate their approved location for 12 hours at least once every seven days. Mobile food units must be moved not later than 10:00 p.m. and not return to the approved location earlier than 6:00 a.m. Lunch trucks must be moved when not in use.

(P) Type 1 mobile food units shall be mobile and shall be moved onto private property more than 400 feet away from their approved location or to another site that is less than 400 feet away if it is parked behind a sight-obscuring fence, so it is not visible in any manner from a public street or from the approved location it uses. Type 1 units shall vacate their approved location between the hours of 10:00 pm and 6:00 am daily.

~~(P)~~ (Q) Except for lunch trucks, no mobile food vendors may be open for business between the hours of 10:00 p.m. and 6:00 a.m.

~~(Q)~~ (R) If external electric service is necessary, an underground electrical service outlet providing electricity may be used. The outlet must have a ground fault interrupter and meet all applicable city, state and federal codes. The extension cord from the outlet to the mobile food unit must not be longer than ~~ten~~ twenty feet, must meet all city, state and federal codes and be secured to avoid a trip hazard.

Section 8. Section 116.09 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.09 MOBILE FOOD UNIT REQUIREMENTS.

Mobile food units must, at all times, comply with the following requirements:

~~(A)~~—All units must be painted white, grey, tan or brown or some other subtle color. No yellow, orange, red, pink or other loud colors are allowed for the base color.

~~(B)~~(A) Signage on the unit may only be painted on the unit and may not take up more than 30% of the surface area of each side, back or front of the unit. No lighted signs or attractants of any kind including rotating or flashing lights are allowed at any time on the unit or approved location except one sign placed on or in the unit no larger than 24 inches. Lights that light the ground patrons stand on may be used but no lights may be shined in the direction of traffic to draw attention to the business or onto adjacent properties. No strobe lights are permitted.

~~(C)~~(B) The unit must be of a good and well-kept appearance and may not have any rust, substantial dents, missing lights or bumpers.

Section 9. Section 116.10 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.10 ~~SHORT-TERM MOBILE FOOD LICENSE, EVENT LICENSE.~~

~~(A)~~—The city may issue short term licenses, in addition to the six mobile food vendor licenses, available for a maximum of 90 consecutive calendar days.

~~(B)~~—A maximum of four short term licenses shall be issued concurrently.

~~(C)~~—A short term license is not eligible for reissuance to the same vendor or for the same location until 90 days from the date of license expiration have elapsed.

~~(D)~~—The approved location requirements in § 116.07 apply with the following modifications:

- ~~1) The location shall be more than 200 feet from any other mobile food vendor as measured from the closest property line of each approved location.~~
- ~~2) The location shall have sufficient paved parking immediately adjacent to the mobile food unit of at least two paved parking spaces specifically designated for use by the mobile vending unit.~~
- ~~3) The location shall be at least five feet from the property line of an adjoining property owner unless the possessor of the adjoining property consents, in writing, to allow the mobile food unit or lunch truck to be closer to the adjoining property.~~
- ~~4) The location shall be 200 feet or more from the property line of a business having a restaurant license.~~

~~(E) The operation and site requirements in § 116.08 apply.~~

~~(F) The mobile food unit requirements in § 116.09 apply. A mobile food unit applying for a short-term license is not required to be a self-propelled van. Push carts, trailers, and self-propelled vans shall all be eligible for a short-term license.~~

~~(G) The City Council shall establish a fee, by resolution, for issuance of a short-term license.~~

~~(H) All provisions for operating a mobile food unit as specified in this chapter remain in effect except where specifically modified by this section.~~

~~(I) Notwithstanding the foregoing, t~~ The city may issue temporary event licenses to a licensed food unit or licensed lunch truck to serve the attendees of a specified temporary non-recurring street fair, festival, carnival, or similar community event. A temporary event is one lasting not more than seven calendar days. No more than one temporary event license shall be issued for the same, or substantially same, event, on or near the same location in each calendar year.

- 1) **(A)** The location requirements of §§ 116.03 and 116.07 shall not apply but the applicant for a license to operate a temporary event shall provide proof of authorization from the event organizer and property owner on which the unit or truck will be located. The unit or truck may be located in right-of-way closed for the event with the approval of the city.
- 2) **(B)** The temporary event license shall be valid the day(s) of the event. It shall be placed on the site no earlier than 6:00 a.m. on the first day and removed no later than 10:00 a.m. on the date following the event with the site left in its prior condition.
- 3) **(C)** An application for a temporary event license must be received by the city at least ten days in advance and contain all information required by the city, including any applicable fee.
- 4) **(D)** Unless waived in the license by the city based on the particular circumstances of the event, all provisions of §§ 116.08 and 116.09 (mobile food units) or § 116.11 (lunch trucks) apply.

(E) Events shall be spaced at least 1,000 feet apart as measured from property line to property line.

Section 10. Section 116.12 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.12 EXEMPTIONS.

- (A) This chapter does not apply to mobile food vending on public property or property controlled by a public entity, it being the intent of this chapter that those public entities are entitled to control vending on their properties as they deem appropriate. This includes all local, state and federal government property.
- (B) This chapter does not apply to mobile food vending at private events of brief duration, not to exceed four hours, including banquets, weddings and other catered events, so long as the food is not for sale to persons not attending the event.
- (C) Mobile units within a food pod are not subject to the operation and siting requirements in §116.08(I), §116.08(O) and §116.08(P) of this chapter.

Section 11. All other provisions of Chapter 116 remain unchanged and in full effect.

Section 12. All other provisions of the Hermiston Municipal Code remain unchanged and in full effect.

Section 13. The City Recorder is hereby authorized to correct any scrivener's errors and to conform the revisions to the Hermiston Municipal Code with appropriate numbering.

Section 14. The effective date of this ordinance shall be the 30th day after its adoption.

ADOPTED by the City Council this 26th day of August 2024.

SIGNED by the Mayor this 26th day of August 2024.

Dr. David Drotzmann, MAYOR

ATTEST:

Lilly Alarcon-Strong, CMC, CITY RECORDER