



# City of Canby

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## City Council & Planning Commission Work Session Staff Report

DATE: July 27, 2021

TO: Honorable Mayor Hodson and City Council, Chair Savory and Planning Commissioners

THRU: Scott Archer, City Administrator

FROM: Brianna Addotta, Associate Planner

ITEM: Food Carts in the City of Canby

### Summary

The purpose of the August 4<sup>th</sup>, 2021 joint work session is to discuss food carts and food cart pods in response to increased community interest. Currently, food carts are allowed through a Temporary Vendor permit, food cart pods are not included in the Canby Municipal Code Chapter 16. Staff has reviewed regulations for food cart pods in other jurisdictions and has conducted a tour of pods around the region and presents them here for consideration, in an effort to inform and solicit direction from the Council and Planning Commission on Canby's options for implementing food cart and food cart pod regulations for our City.

### Background

Food carts are a way for small and local businesses to reach customers directly, with low overhead and more flexibility than opening a brick and mortar restaurant. They can also add interest, vibrancy and activity to an area, and provide increased and more diverse access in areas underserved by traditional restaurants. Food cart pods have become popular especially over the past decade; a pod is a designated site with rental spaces for individual cart owners, often with shared facilities such as restrooms and handwashing stations, seating and weather protection, and trash and recycling disposal. Balancing regulations and permitting procedures can help ensure mobile food vending opportunities are present without posing a threat to traditional restaurants, interfering with the right-of-way, or creating a nuisance.

### Discussion

#### Temporary Vendor Permit

Temporary vendor permits allow the sale of good or services from a vehicle, truck, tent, or other temporary structure on private property for up to 90 days, with the option of renewing for an additional 90 days. The City has not received a temporary vendor application from a mobile food vendor in over three years, despite frequent inquiries about the process to Planning and Economic Development staff. We have learned the restrictions placed on temporary vendor permits make them largely impractical for food cart operators who, if successful in their location, would like to stay for a longer period of time.

Mobile food vendors have several additional considerations not addressed by the temporary vendor regulations, such as food storage and refrigeration, cooking equipment, trash and recycling generation, providing seating options, lighting and weather protection, provision of utilities, and security. Holes in regulations create applicant confusion and discourage them from bringing their business to our city, as well as allowing sub-par design.

In order to address these issues, staff recommend implementing a new type of temporary vendor permit more specific to mobile food units. This would be an administrative (Type 1) land use application written specifically with mobile food vending in mind. Differences between this permit and the general temporary vendor permit could include: longer approval periods, such as 1 year per cart per site, with an option to renew if no violations have been reported. Design standards such as location and type of seating, weather protection, and storage options can also be regulated through a mobile food unit permit. These permits will give cart owners and property owners clear direction and send the signal we as a City are ready to welcome them to our community.

Other jurisdictions have done similarly. The City of Milwaukie crafted a permitting process specifically for 'Mobile Food Carts on Private Property' in 2019. Attachment A is a three page informational handout created by Milwaukie Planning that includes (1) the application thresholds (2) the approval criteria (3) the application process and (4) the code sections applicable to the application.

Staff is seeking direction from the planning commission and city council on this or other ideas or procedures for individual food cart and permitting options.

### Food Cart Pods

Food Cart Pods, or mobile food unit sites, are properties where mobile carts have support facilities which allow them to be parked on a long term basis. These facilities often include restrooms, handwashing stations, seating, lighting, weather protection, and sometimes a permanent building or 'host cart' serving drinks and providing gathering space.

Pods offer property owners an option to develop in a limited capacity in order to see a short term return on their investment, while at the same time, providing space for business incubation, community gathering, and culinary adventure. Pods are largely considered an 'interim use' in that they are not typically the highest and best use for a piece of commercial property and will eventually be redeveloped when the market allows. Remnant parcels are sometimes creatively developed into Pods as well, creating a pocket of interest and activity in developed commercial areas.

Pods are also a great way to reflect community values and interests; individual carts are tenants of the pod, and the patrons essentially will decide which carts they value by voting with their purchases. They provide opportunity for creativity- local artists can display their work, creative seating and lighting can act as a gathering space. Successful carts often graduate to a brick-and-mortar restaurant in the community where they already have relationships with their patrons, and the City.

In considering potential regulations for Food Cart Pods, two categories are considered, accommodations and design.

Accommodations include the essentials: trash collection, restrooms and hand washing, utilities for the carts, perimeter designation, and parking.

Design includes what makes a Pod attractive: Entryway interest, configuration and number of carts, landscaping, seating, weather protection.

<b>Site Accommodations</b>		<b>TABLE 1</b>
Perimeter	Fencing, security, landscaping, screening, fire access	
Restrooms & handwashing	Temporary or permanent, screening	
Trash and recycling	Location, operations	
Utilities	Under ground, above ground, screening	
Parking	Ratios, location, ADA	
Surfacing	Gravel, aggregate, pavement, asphalt	
<b>Site Design</b>		
Entry	Site demarcation, signage, type of access, landscaping	
Number & Configuration of Carts	Square footage per space, space between carts, individual screening, cart standards, setbacks	
Landscaping	Perimeter, size and type, potted or planted, maintenance, ratio	
Seating	Type and number, configuration, accessibility	
Weather protection	Type, materials, temporary or permanent, maintenance	

**Fiscal Impact**

No city fiscal impact expected. Work can be done by City staff.

**Options**

During this work session, staff will present different examples of these accommodations and design elements (see Table 1) and encourage a discussion among Councilors, Commissioners and staff.

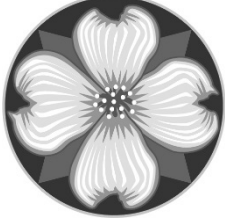
**Recommendation**

Provide a clear idea of what a Pod should look like in Canby, and a recommendation to staff to pursue crafting code language for Food Carts and Food Cart Pods for adoption into the City of Canby Municipal Code Chapter 16, Planning and Zoning.

**Proposed Motion**

As this is a work session, no motion is being requested, however staff is requesting direction on proceeding ahead with a draft Food Cart ordinance for planning commission and city council review and adoption.

**Attachment A: City of Milwaukie *Mobile Food Carts on Private Property***



**PLANNING DEPARTMENT**  
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# Mobile Food Carts on Private Property

This information applies to mobile food carts located on private property. For information about locating a food cart in the public right-of-way, contact the Engineering Department at 503-786-7600.

If you are planning a mobile food cart, your first step should be to consider where the cart will be located. The location of the food cart will help determine which sections of the Milwaukie Municipal Code (MMC) apply and what permits may be required.

Mobile food carts meet the definition of "vehicle" per MMC Section 19.201 Definitions if they meet the following criteria:

- The cart will sit on an existing paved parking area on a site that is zoned to allow eating and drinking establishment uses.
- The cart has wheels, and the wheels will not be removed.
- Any canopies, awnings, or any other attachments will be attached to, and supported entirely by, the cart and will not touch the ground.
- The unit is self-contained and will not require any plumbing connections.
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If your food cart does not meet the above criteria, it will be considered a building and will be subject to the appropriate land use approvals, permits, and design reviews. For more information about building requirements, contact the Planning Department at 503-786-7630.

Mobile food carts may require permits from other agencies and City departments.

## APPROVAL CRITERIA

Food carts are permitted in Milwaukie under the following conditions:

- Carts must be totally self-contained.
- Carts must remain mobile and have wheels attached at all times.
- Carts must meet the eating establishment definition and must be located on property that allows eating establishments as a permitted, limited, or accessory use.
- If the cart locates in a required parking space for another existing use, that space will be removed from the parking count and will need to be replaced per MMC Chapter 19.600 Off-Street Parking and Loading (shared or on-site)
- Carts with wheels are considered vehicles, not structures, and are, therefore, not subject to development standards and downtown design review.
- Carts without wheels are considered structures and are subject to development standards, and may be subject to downtown design review.

## APPLICATION PROCESS

1. First, identify a site for your cart. The location of the cart will determine which sign and development regulations will apply.

Food cart eating establishments are **allowed outright** in the following zones:

- Downtown Mixed Use (DMU)
- General Mixed Use (GMU)
- Neighborhood Mixed Use (NMU)
- General Commercial (C-G)
- Tacoma Station Area Manufacturing (M-TSA)

Food cart eating establishments are **allowed as limited uses** in the following zones:

- Business Industrial (BI)

Food cart eating establishments are **allowed as accessory uses** in the following zone:

- Manufacturing (M)

Food cart eating establishments are **allowed as conditional uses** in the following zones (this is a Type III process):

- Neighborhood Commercial (C-N)
- Open Space (OS)

Food cart eating establishments are **prohibited** in the following zones:

- All Residential zones (R-10, R-7, R-5, R-3, R-2.5, R-2 and R-1)
- Residential-Office-Commercial (R-1-B)
- Limited Commercial (C-L)
- Community Shopping Commercial (C-CS)

2. Submit appropriate Clackamas County applications and licenses for mobile food units. The information can be found at [http://clackamas.us/community\\_health/eh/restaurants.jsp](http://clackamas.us/community_health/eh/restaurants.jsp).
3. Apply for a City of Milwaukie Business Registration. The form can be found at <http://www.milwaukieoregon.gov/finance/business-registration-1>.
4. Apply for any necessary permits. Mobile food carts are commercial businesses and all electrical work in or on the cart must be done by a licensed electrical contractor. Any electrical work in or on the cart will require a permit (including electrical service from a generator). Contact the Building Department at 503-786-7613 for more information.

Vending carts are allowed one daily display sign (A-board) per cart. The sign must comply with MMC Chapter 14.16 Sign Districts. If the sign will be displayed on private property, you will also need a daily display sign owner authorization.

The application for a daily display sign and sign owner authorization can be found at <http://www.milwaukieoregon.gov/planning/daily-display-sign>.

## **DESIGN**

Food carts located on private property in downtown Milwaukie are not subject to design review. However, we encourage the use of high-quality materials, attractive colors and designs, and other means of contributing to the overall vitality and appeal of the downtown area.

## **APPLICABLE CODE SECTIONS**

Food carts must comply with the applicable sections of the Milwaukie Municipal Code. The sections of the Code that apply to food carts are Title 14 and Title 19. Title 14 is the Sign Ordinance, which provides standards for signs in the city; Title 19 is the Zoning Ordinance, which provides guidelines for development standards and uses in the city. The full text of the Code can be found at <http://www.qcode.us/codes/milwaukie/>.

### **MMC Chapter 14.16 Sign Districts**

This section of the Code identifies prohibited signs, exempted signs, and standards for signs; standards vary depending on the sign district where the cart will be located.

### **MMC Section 19.201 Definitions**

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

“Eating establishment” means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

### **MMC Chapter 19.300 Base Zones**

This section of the Code identifies which uses are allowed in each zone. Food cart eating establishments are allowed outright in the DMU, GMU, NMU, and C-G Zones. They are allowed as accessory uses in the M Zones; as limited uses in the BI and M-TSA Zones; and as conditional uses in the C-N and OS Zones.

### **MMC Chapter 19.600 Off-Street Parking and Loading**

This section of the Code determines the number of required parking spaces for each use in each zone. If your food cart is located in a required parking space for another business, that parking space will need to be replaced either on- or off-site in accordance with this section.