

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1275

Amending Multnomah County Code Chapter 21 - Health to add § 21.625 through § 21.634 - Food Cart Pod Regulation

(Language stricken is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

1. Mobile food carts and food cart pods have positive impacts on street vitality, neighborhood life, and generate beneficial business and employment opportunities.
2. Food cart pods that do not ensure access to basic power, water, and waste management services may cause public health issues and concerns, including fire danger, wastewater contamination, rodent and pest attractants, and other factors that impede best practices in the production of healthy and safe food.
3. Therefore, the County Health Department formed a workgroup to consider and develop recommendations to address public health risks. That workgroup recommended the permitting and regulation of food cart pods by the County Health Department.
4. Under ORS 431, the Multnomah County is the local public health authority. A core responsibility of the local public health authority is to adopt ordinances necessary to administer any public health matter not expressly preempted by state or federal laws.
5. Permitting and regulating food cart pods, pursuant to that local public health authority, will promote compliance with local, state, and federal laws and will benefit public health.

Multnomah County Ordains as Follows:

Section 1. MCC § 21.625 is added as follows:

§ 21.625 - PURPOSE

The purpose of MCC 21.625 to MCC 21.634 is to permit and regulate the operation of food cart pods to reduce negative public health impacts.

Section 2. MCC § 21.626 is added as follows:

§ 21.626 - DEFINITIONS

For the purposes of this subchapter, the following definitions shall apply unless the context requires a different meaning.

"Beverage" means a liquid for drinking, including water.

"Department" means the Multnomah County Health Department or designee.

"Pod" means greater than 1 mobile food cart on private or public property for the purpose of selling food, beverages, or both food and beverages.

"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.

"Mobile Food Unit or Food Cart" means any vehicle or structure that is self-propelled, or that can be pulled, towed, pushed, or otherwise moved down a sidewalk, street, highway or waterway, on which food is cooked, prepared, processed, or converted, or which is used in selling and dispensing food to the ultimate consumer.

"Pest" includes without limitation (1) an insect or other arthropod; (2) a weed, moss, slime or mildew or a plant disease caused by a fungus, bacterium or virus; (3) a nematode, snail, slug, rodent or predatory animal; (4) a bacterium, spore, virus, fungus or other microorganism that is harmful to human health; or (5) other forms of plant or animal life that may infest or be detrimental to vegetation, humans, animals, structures, managed landscapes or other human environments.

"Permit" means the document issued by the Department that authorizes a person or entity to operate a pod.

"Permit holder" means an individual or entity that: (1) Is legally responsible for the operation of the food cart pod such as the property owner, the property owner's agent, or lessee of the property; and (2) Possesses a valid permit to operate a food cart pod.

"Property Owner" means the owner, public or private, of the title to real property, or the most recent contract purchaser of real property.

"Temporary public event" means single or multiple events at one location in connection with a public gathering, entertainment event, or food product promotions, and where food is prepared or served for consumption by the public and a temporary restaurant license is issued.

Section 3. MCC § 21.627 is added as follows:

§ 21.627 - PERMIT REQUIRED

A food cart pod permit is required whenever greater than one mobile food units or food carts are at the same location and are not directly associated with a temporary public event.

Section 4. MCC § 21.628 is added as follows:

§ 21.628 - PERMIT NON-TRANSFERABLE

In no circumstances is a food cart pod permit transferable. Each permit holder must obtain a permit directly from the Department.

Section 5. MCC § 21.629 is added as follows:

§ 21.629 - PROHIBITED ACTIVITIES

(A) If a Property Owner authorizes or allows a pod to operate without a permit on real property owned by the Property Owners, it shall be a violation of this subchapter.

(B) Failure to comply with any terms of the permit shall be a violation of this subchapter.

(C) Failure to comply with any rules and procedures adopted by the Department shall be a violation of this subchapter.

Section 6. MCC § 21.630 is added as follows:

§ 21.630 - ADMINISTRATIVE RULEMAKING ADVISORY COMMITTEE

(A) The Department will appoint a Food Cart Pod Rulemaking Advisory Committee.

(B) The Food Cart Pod Rulemaking Advisory Committee will advise the Department on administrative rules that include but are not limited to the following:

1. Permitting application and issuance processes;
2. Permitting inspections;
3. Permitting enforcement;
4. Penalties;
5. Educational information; and
6. Any public health matter relating to mobile food units, food carts, or pods that is not otherwise preempted by state or federal laws.

(C) The Department shall adopt any and all pertinent rules and procedures to fulfill the purposes and mandates of this subchapter. The Department has the discretion to adopt or reject any recommendations received from the Food Cart Pod Rulemaking Advisory Committee.

Section 7. MCC § 21.631 is added as follows:

§ 21.631 - INSPECTIONS

The Department shall have authority to inspect and investigate potential violations of this subchapter in accordance with the administrative rules.

The provisions of this subchapter shall not be deemed to restrict the right of the County to inspect any property pursuant to any applicable federal, state, or local laws or regulations.

Section 8. MCC § 21.632 is added as follows:

§ 21.632 - ENFORCEMENT

The Department Director, or designee, shall enforce the provisions of this subchapter and the administrative rules adopted pursuant to this subchapter.

The Department may issue civil penalties or restrictions based upon findings that a pod is in violation of this subchapter.

Section 9. MCC § 21.633 is added as follows:

§ 21.633 - APPEALS AND HEARING

Any person receiving a written notice of violation of this subchapter may request a hearing in accordance with rules adopted by the Department.

Section 10. MCC § 21.634 is added as follows:

§ 21.634 - FEES AND PENALTY

(A) Specific permit fees under this subchapter will be set by Board resolution.

(B) Any permit holder found in violation of this subchapter may be subject to a civil penalty not to exceed \$1,000 per day. Specific civil penalties will be set by Board resolution.

FIRST READING: September 26, 2019

SECOND READING AND ADOPTION: October 10, 2019

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair



REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Robert E. Sinnott
Robert Sinnott, Senior Assistant County Attorney

SUBMITTED BY: Deborah Kafoury, Chair.