



Council Business Meeting

February 21, 2023

Agenda Item	Public Hearing and First Reading of Ordinance 3216 – Food Truck Ordinance Amendment	
From	Brandon Goldman Derek Severson	Interim Community Development Director Senior Planner
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Item Type	Requested by Council <input type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input checked="" type="checkbox"/> Presentation <input checked="" type="checkbox"/>	

SUMMARY

The proposal would amend the Ashland Land Use Ordinance to provide additional options for food trucks and food carts in a new section AMC 18.2.3.145 'Food Trucks and Food Carts.'

POLICIES, PLANS & GOALS SUPPORTED

Ashland Comprehensive Plan, Economic Element (Goal 7.07.03) *"To ensure that the local economy increases in its health, and diversifies in the number, type, and size of businesses consistent with the local social needs, public service capabilities, and the retention of a high quality environment."*

Ashland Comprehensive Plan, Economic Element (Goal 7.07.03, Policy 2.g) *"Clear and objective standards for development reviews that provide for a quick and predictable approval process with a reduced amount of uncertainty."*

BACKGROUND AND ADDITIONAL INFORMATION

Food vendors and space for outdoor eating have long been recognized among the defining elements for required plaza space in Ashland's design standards. They also serve as incubators for restauranteurs to make a more affordable entry into the business without a bricks-and-mortar investment, can help to enliven and activate under-utilized spaces, and during the pandemic they provided an affordable outdoor dining option in many communities.

Food trucks and food carts in Ashland are currently regulated as follows:

- **Short-Term Events (AMC 18.2.2.030.H):** Current codes provide for staff approval of short-term temporary uses occurring no more than once in a calendar year on a property and lasting not more than 72 hours. There are no public notice requirements for this type of review. This is the process used for the food trucks at the annual Chocolate Festival at the Ashland Hills Hotel and at exhibitions and shows at Enclave Studios & Galleries.
- **Accessory to an Existing Use:** Where food trucks are part of an event that is accessory to an existing, approved use they may occur without a separate permit. As an example, when the Earth





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Day celebration is held at ScienceWorks Hands On Museum each year, the Earth Day celebration including food trucks is accessory to the existing approved museum use.

- **Conditional Use Permit (AMC 18.5.4):** Where a proposal goes beyond the scope of a short-term event or being accessory to an existing use, food trucks as temporary, seasonal or intermittent uses require Conditional Use Permit approval. This process requires public notices and takes approximately 45 days unless an appeal is filed. This is the process used for the Water Street Café, the food truck court at the Growers Market at the corner of Walker Avenue and Ashland Street, at Northwest Nature Shop and on the OSF campus. The Conditional Use Permit process – which involves a \$200 pre-application conference, a \$1,120.25 application fee, and an extended process if appealed – can pose a barrier to entry to many food truck owners.

The Planning Commission discussed food trucks on June 28, 2022, and at its September 13, 2022 meeting the Planning Commission initiated an ordinance amendment as allowed in AMC 18.5.1.100 to look at ways to provide additional options for food truck operators interested in operating in Ashland. The Planning Commission subsequently discussed ordinance changes at meetings on September 13, September 27, October 25, and December 13, 2022. The draft ordinance presented tonight incorporates the recommendations of the Planning Commission, in ordinance form, and generally allows for food trucks and food carts as follows:

- **Short Term Event Permits (AMC 18.2.2.030.H):** The short-term events allowances have been left as is, but an additional subsection has been provided to specifically allow for food trucks on a private property on a short-term basis no more than once per month rather than only once per year.
- **Ministerial Permit:** The ministerial Food Truck Permit language proposed would allow up to three trucks or food carts in approved plaza spaces and private parking lots.
- **Site Design Review:** A food truck pod, with more than three trucks on a property, or the placement of food trucks other than on approved plaza space or parking areas would be subject to a Site Design Review approval. As with other Site Design Review applications, those within the historic districts would be subject to review by the Historic Preservation Advisory Committee.
- **Conditional Use Permit:** At the Planning Commission's direction, any proposed food truck or food cart operations within the downtown (C-1-D) district would remain subject to Conditional Use Permit approval, which would include review by the Historic Preservation Advisory Committee.
- **Residential Zones:** The various 'Allowed Uses' charts have been updated to make clear that food trucks are not to be allowed within any residential zoning districts.
- The proposed amendments to not include allowances for Food Trucks to be located in public parking spaces or in on-street parking areas outside of designated Special Events.

FISCAL IMPACTS





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Permit fees will be set to cover costs for each type of permit review. Food truck and food cart operators will be required to obtain a City of Ashland business license and pay Food and Beverage Tax.

DISCUSSION QUESTIONS

- Are Councilors favorable to newly allowing up to three food trucks or carts to be approved on a single private commercially zoned property through ministerial review?
- Are Councilors favorable to allowing food trucks and food carts in existing approved plaza spaces in Detail Site Review zones?
- Are Councilors favorable to newly allowing food trucks to be located on private property in association with a short term event on a monthly basis, rather than once annually?
- Do Councilors find that the requirement that a ministerially-approved food truck not remain in place for more than five consecutive days is appropriate? *This would prevent the trucks from being left in one place indefinitely, and would enable emptying of wastewater, re-filling of water tanks and re-stocking of supplies off-site.*

SUGGESTED NEXT STEPS

Staff concurs with the Planning Commission and recommends that the Council approve the proposed ordinance.

The Council can choose to conduct the first reading and to approve the proposed ordinance as recommended by the Planning Commission or with modifications and move the ordinance to second reading, or choose not to adopt the ordinance. Should the Council approve the ordinance tonight, written findings formalizing tonight's decision will need to be adopted in conjunction with the second reading. Recommended motion:

- I move approval of first reading of Ordinance #3216, "**An Ordinance Amending the Ashland Land Use Ordinance to Provide Additional Options for Food Trucks and Food Carts by adding a new section AMC 18.2.3.145 'Food Trucks and Food Carts'; amending section 18.2.2.030.H 'Temporary Uses'; adding a new section AMC 18.3.3.045 'Special Permitted Uses'; amending the "Allowed Uses" Tables 18.2.2.030, 18.3.2.040, 18.3.4.040 & 18.3.5.050; and adding new definitions in AMC 18.6.1.030.F**", scheduling of its second reading and adoption of written findings for March 7, 2023.



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REFERENCES & ATTACHMENTS

Attachment 1: Draft Ordinance #3216

Attachment 2: Planning Commission Staff Report dated 12/13/2022

Planning Commission Meeting	Packet	Video	Minutes
June 28, 2022	2022-06-28_PC_Packet.pdf	2022-06-28_PC_Video	2022-06-28-Minutes
September 13, 2022	2022-09-13_PC_Packet.pdf	2022-09-13_PC_Video	2022-09-13-Minutes
September 27, 2022	2022-09-27_PC_Packet.pdf	2022-09-27_PC_Video	2022-09-27-Minutes
October 25, 2022	2022-10-25_PC_Packet.pdf	<i>No video available</i>	2022-10-2022-Minutes
December 13, 2022	2022-12-13_PC_Packet.pdf	2022-12-13_PC_Video	2022-12-13-Minutes

ORDINANCE NO. 3216

AN ORDINANCE AMENDING THE ASHLAND LAND USE ORDINANCE TO PROVIDE ADDITIONAL OPTIONS FOR FOOD TRUCKS AND FOOD CARTS BY ADDING A NEW SECTION AMC 18.2.3.145 ‘FOOD TRUCKS AND FOOD CARTS’; AMENDING SECTION 18.2.2.030.H ‘TEMPORARY USES’; ADDING A NEW SECTION AMC 18.3.3.045 ‘SPECIAL PERMITTED USES’; AMENDING THE ALLOWED USES TABLES 18.2.2.030, 18.3.2.040, 18.3.4.040 & 18.3.5.050; AND ADDING NEW DEFINITIONS IN AMC 18.6.1.030.F.

Annotated to show **deletions** and **additions** to the code sections being modified. Deletions are **bold lined-through** and additions are in **bold underline**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass’n of Firefighters, Local 1660, Beaverton Shop 20 Or. App. 293; 531 P 2d 730, 734 (1975); and

WHEREAS, food vendors and space for outdoor eating have long been recognized among the defining elements for required plaza space in Ashland’s design standards, they also serve as incubators for restauranteurs to make a more affordable entry into the business without a bricks-and-mortar investment, can help to enliven and activate under-utilized spaces, and during the pandemic provided an affordable outdoor dining option in many communities.

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WHEREAS, the City of Ashland Planning Commission considered the above-referenced recommended amendments to the Ashland Land Use Ordinance at a duly advertised public hearings on December 13, 2022, and following deliberations, recommended approval of the amendments by a vote of 5-0; and

WHEREAS, the City of Ashland Planning Commission conducted on December 13, 2022 a duly advertised public hearings on amendments to the Ashland Land Use Ordinance concerning the standards relating to annexations, and following deliberations recommended approval of the amendments.; and

WHEREAS, the City Council of the City of Ashland conducted duly advertised public hearings on the above-referenced amendments on February 21, 2023.; and

WHEREAS, the City Council of the City of Ashland, following the close of the public hearing and record, deliberated and conducted first and second readings approving adoption of the Ordinance in accordance with Article 10 of the Ashland City Charter.; and

WHEREAS, the City Council of the City of Ashland has determined that in order to protect and benefit the health, safety and welfare of existing and future residents of the City, it is necessary to amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an adequate factual base exists for the amendments, the amendments are consistent with the comprehensive plan and that such amendments are fully supported by the record of this proceeding.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Ashland Municipal Code Title 18 Land Use is hereby amended as follows.

SECTION 2. Table 18.2.2.030 [Uses Allowed by Zone] is hereby amended to include the following.

	R-	R-	R-	R-	RR	WR	C-	E-	M-	Special Use Standards
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	1	1-	2	3			1	1	1	
		3.5					&			
							C-			
							1-			
							D			

E. Commercial Uses

<u>Food Trucks & Food Carts</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Sec. 18.2.3.145</u>
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SECTION 3. Section 18.2.2.030.H. [Temporary Uses] is hereby amended to read as follows:

18.2.2.030.H. Temporary Uses. Temporary uses require a conditional use permit under chapter 18.5.4, except as follows:

1. Short-Term Events. The Staff Advisor may approve through ministerial review short-term temporary uses occurring once in a calendar year and lasting not more than 72 hours including set-up and take-down. Activities such as races, parades, and festivals that occur on public property (e.g., street rights-of-way, parks, sidewalks, or other public grounds) require a special event permit pursuant to chapter 13.03.

2. Short-Term Food Truck Event. The Staff Advisor may approve through ministerial review the short-term temporary operation of a food truck occurring not more than once per month and lasting not more than 72 hours including set-up and take-down. In addition to the short-term food truck event permit, food truck vendors shall obtain a business license, register for and pay applicable food and beverage tax, and receive any requisite inspections from the Building and Fire Departments and the Jackson County Environmental Public Health Department. Short-term food truck events are not to be permitted in residential zones.

32. Garage Sales. Garage sales shall have a duration of not more than two days and shall not occur more than twice within any 365-day period. Such activity shall not be accompanied by any off-premises advertisement. For the purpose of this chapter, garage sales meeting the requirements of this subsection shall not be considered a commercial activity.

43. Temporary Buildings. Temporary occupancy of a manufactured housing unit or similar structure may be permitted for a period not to exceed 90 calendar days upon the granting of a permit by the Building Official. Such occupancy may only be allowed in conjunction with construction on the site. Said permit shall not be renewable within a six-month period beginning at the first date of issuance, except with approval of the Staff Advisor.

SECTION 4. Section 18.2.3.145 [Food Trucks and Food Carts] is hereby added to the Ashland Land Use Ordinance to read as follows:

1 **Section AMC 18.2.3.145 Food Trucks and Food Carts.**

2 **Where food trucks and food carts are allowed they are subject to the following**
3 **requirements.**

- 4
- 5 A. **Within the Detail Site Review overlay zone as described in ALUO 18.4.2.040.C,**
6 **outdoor eating areas and food vendors are among the required elements of the**
7 **Detail Site Review Plaza Space Standards (ALUO 18.4.2.040.D.2). Where food**
8 **trucks, food carts, and associated outdoor eating areas, can operate within**
9 **existing approved plaza space without alteration of the existing site plan, a food**
10 **vendor must obtain a ministerial Food Truck Permit but no further land use**
11 **approval is required.**
- 12 B. **Within the C-1, CM-NC, CM-MU, CM-OE, CM-CI, E-1, HC, M-1, NM-C, and NN-1-3.5-C**
13 **zones, food trucks and food carts may operate within existing private parking lots**
14 **where there are at least five off-street parking spaces in place, the existing**
15 **approval did not include mixed use or joint use parking credits, and no more than**
16 **20 percent of the required off-street parking spaces are proposed to be used by**
17 **food trucks and food carts. Food truck, Food Cart, and associated accessory item**
18 **placement shall not interfere with vehicular or pedestrian circulation on site. A**
19 **food vendor must obtain a ministerial Food Truck Permit but no further land use**
20 **approval is required.**
- 21 C. **Within the C-1-D zone, the operation of a food truck or food cart requires a**
22 **Conditional Use Permit under chapter 18.5.4.**
- 23 D. **No more than three food trucks or food carts may be approved on a single**
24 **property under a ministerial Food Truck Permit.**
- 25 E. **Food truck courts or pods, or the operation of food trucks and food carts on**
26 **private property outside of existing parking areas or approved plaza space,**
27 **require Site Design Review approval under chapter 18.5.2.**
- 28 F. **Short-term operation of a food truck or food cart outside of the parameters of A-B**
29 **above may be permitted as a short-term event pursuant to AMC 18.2.2.030.H.2.**
- 30 G. **Ministerially-approved food trucks and food carts are not permitted to operate**
within public rights-of-way.
- H. **Food truck vendors shall obtain a business license, food truck permit, register for**
and pay applicable food and beverage tax, and receive any requisite inspections
from the Building and Fire Departments and the Jackson County Environmental

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Public Health Department. Approved City and County permits shall be displayed on the food truck or food cart, and the food truck vendor is responsible for compliance with all permit requirements.

- I. Utilities. Food Truck Vendors must provide their own water. Wastewater must be disposed of in an approved location. Connections to temporary power are permitted. If generators are used, they shall comply with the noise regulations in Chapter 9.08.**
- J. Signage. Signage shall be limited to any signage on the food truck or cart and one portable business sign (sandwich board or A-frame) which shall be removed when the food truck or cart is not in operation. Portable business signs shall not be placed within the public rights-of-way.**
- K. Trash and Recycling. Food truck vendors shall provide trash and recycling containers within ten feet of the truck or cart during operations, and any trash related to the food vendor within 50 feet not placed in the containers shall be removed by the vendor at the end of the day. Trash and recycling containers shall be removed from the premises when the food truck is not in operation.**
- L. Duration. A food truck shall not remain on a property for more than five consecutive days.**
- M. Polystyrene Foam. Food truck vendors shall be subject to the prohibition on the use of polystyrene foam food packaging in AMC 9.20.**

SECTION 5. Table 18.3.2.040 [Croman Mill District Uses Allowed by Zone] is hereby amended to include the following.

	Croman Mill District Zones²				
	NC	MU	OE	CI	OS
B. Commercial					
<u>Food Trucks & Food Carts (Subject to the requirements of AMC 18.2.3.145)</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>N</u>

SECTION 6. Table 18.3.4.040 [Normal Neighborhood District Uses Allowed by Zone] is hereby amended to include the following.

	Normal Neighborhood District Zones²			
	NN-1-5	NN-1-3.5	NN-1-3.5-C	NN-2

B. Neighborhood Business and Service Uses					
Food Trucks & Food Carts (Subject to the requirements of AMC 18.2.3.145)	N	N	S	N	

SECTION 7. Section 18.3.3.045 [Special Permitted Uses] is hereby added to the Ashland Land Use Ordinance to read as follows.

Section 18.3.3.045 Special Permitted Uses
The following uses are permitted when authorized in accordance with the special permitted uses standards detailed below.

A. Food Trucks and Food Carts, subject to the requirements of AMC 18.2.3.145.

SECTION 8. Table 18.3.5.050 [North Mountain Neighborhood Uses Allowed by Zone] is hereby amended to include the following.

	North Mountain Neighborhood Zones²				
	NM-R-1-7.5	NM-R-1-5	NM-MF	NM-C	NM-Civic

C. Commercial					
Food Trucks & Food Carts (Subject to the requirements of AMC 18.2.3.145)	N	N	N	S	N

SECTION 9. Section 18.6.1.030.F [Definitions] is hereby amended to include the following new definitions:

Food Cart. A push cart or mobile food unit which is designed to be readily movable, but is typically not self-propelled by motor or pedal power, and which is temporarily located on a property to sell food and beverages to the general public. The maximum size for a food cart is four-feet wide nine feet long and four feet high. Food carts must be self-contained and designed to be movable by one person.

Food Truck. A wheeled, motorized vehicle or trailer temporarily located on a property to sell food and beverages to the general public. A food truck typically contains cooking facilities where the food is also prepared. The exterior length and width of a food truck, when multiplied, shall be no more than 170 square feet, excluding the trailer tongue and bumper. Up to an additional 170 square feet is allowed for outdoor equipment.

Food Truck Court or Food Truck Pod. Four or more food trucks or food carts operating on the same property.

Food Truck Vendor. The operator who sells, cooks and serves food or beverages from a food truck or food cart.

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The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____ day of _____, 2023, and duly PASSED and ADOPTED this ____ day of _____, 2023.

ATTEST:

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2023.

Julie Akins, Mayor

Reviewed as to form:

Douglas M. McGeary, Acting City Attorney

ASHLAND PLANNING DIVISION

STAFF REPORT

December 13, 2022

PLANNING ACTION: PA-L-2022-00015

APPLICANT: City of Ashland

ORDINANCE REFERENCES:	AMC 18.2.2	Base Zones & Allowed Uses
	AMC 18.2.3.145	Food Trucks and Food Carts
	AMC 18.3.2	Croman Mill District
	AMC 18.3.3	Health Care Services District
	AMC 18.3.4	Normal Neighborhood District
	AMC 18.3.5	N. Mountain Neighborhood District
	AMC 18.5.4	Conditional Use Permits
	AMC 18.6.1.030.F	Definitions

REQUEST: The proposal would amend the Ashland Land Use Ordinance to provide additional options for food trucks and food carts in a new section AMC 18.2.3.145 ‘Food Trucks and Food Carts.’

I. Ordinance Amendments

A. Project Background

As has been previously discussed, food trucks are currently regulated as follows:

- **Short-Term Events (AMC 18.2.2.030.H):** Current codes provide for staff approval of short-term temporary uses occurring no more than once in a calendar year on a property and lasting not more than 72 hours. There are no public notice requirements for this type of review. This is the process used for the food trucks at the annual Chocolate Festival at the Ashland Hills Hotel and at exhibitions and shows at the Enclave Studios and Galleries.
- **Accessory to an Existing Use:** Where food trucks are part of an event that is accessory to an existing, approved use they may occur without a permit. As an example, when the Earth Day celebration is held at ScienceWorks Hands On Museum each year, the celebration including food trucks is accessory to the existing approved use.
- **Conditional Use Permit (AMC 18.5.4):** Where a proposal goes beyond the scope of a short-term event or being accessory to an existing use, food trucks as temporary, seasonal or intermittent uses require Conditional Use Permit approval. This process requires public notices and generally takes approximately 45 days unless an appeal is filed. This is the process used for the Water Street Café, the food truck court at the current Growers Market, at Northwest Nature Shop and on the OSF campus. The Conditional Use Permit process –

which involves a \$200 pre-application conference, a \$1,120.25 application fee, and an extended process if appealed - can pose a barrier to entry to many food truck owners.

The Planning Commission discussed food trucks in June of 2022, and at its September 13, 2022 meeting, the Planning Commission initiated an ordinance amendment as allowed in AMC 18.5.1.100 to look at ways to provide additional options for food truck owners interested in operating in Ashland. The Commission has subsequently discussed ordinance changes at study sessions in September and October. The draft ordinance presented tonight incorporates the discussion points into ordinance form, and any changes here can be finalized and brought back for adoption along with written findings before the issue is taken to Council.

B. Summary of Proposed Amendments

Based on the Planning Commission discussion at the October 25th study session, the draft ordinance has been updated with the following:

Short Term Event Permits (AMC 18.2.2.030.H): The short term events allowances have been left as is, but an additional subsection has been provided to allow for food trucks on a property on a short-term basis (i.e. no more than once per month).

Ministerial Permit: The ministerial Food Truck Permit language proposed would allow up to three trucks or carts in approved plaza spaces and private parking lots.

Site Design Review: A food truck pod, with more than three trucks on a property, or the placement of food trucks other than on approved plaza space or parking areas would be subject to Site Design Review. As with other Site Design Review applications, those within the historic districts would be subject to review by the Historic Preservation Advisory Committee.

Conditional Use Permit: At Commission direction, proposed food truck or food cart operations within the downtown (C-1-D) district would remain subject to Conditional Use Permit approval, which would include review by the Historic Preservation Advisory Committee.

Residential Zones: The various allowed uses charts have been updated to make clear that food trucks are not to be allowed within residential zoning districts.

II. Procedural

Applications for Type III (i.e. Legislative) Plan Amendments and Zone Changes are described in the Ashland Land Use Ordinance section 18.5.9.020 as follows:

B. Type III. It may be necessary from time to time to make legislative amendments in order to conform with the Comprehensive Plan or to meet other changes in circumstances or conditions. The Type III procedure applies to the creation, revision, or large-scale implementation of public policy requiring City Council approval and enactment of an ordinance; this includes adoption of regulations, zone changes for large areas, zone changes

requiring comprehensive plan amendment, comprehensive plan map or text amendment, annexations (see chapter 18.5.8 for annexation information), and urban growth boundary amendments. The following planning actions shall be subject to the Type III procedure.

1. Zone changes or amendments to the Zoning Map or other official maps, except where minor amendments or corrections may be processed through the Type II procedure pursuant to subsection 18.5.9.020.A, above.
2. Comprehensive Plan changes, including text and map changes or changes to other official maps.
3. Land Use Ordinance amendments.
4. Urban Growth Boundary amendments.

III. Conclusions and Recommendations

If the Planning Commission recommends approval of the attached ordinances, staff will forward the Commission's recommendation to the City Council to proceed with a public hearing before the Council.

Attachments

Draft Ordinance