



# Council Business Meeting

March 7, 2023

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|--------------------|--|--|
| <b>Agenda Item</b> | Ordinance 3216 Second Reading and Findings Adoption – Food Truck Amendments  |  |
| <b>From</b>        | Brandon Goldman<br>Derek Severson  | Interim Community Development Director<br>Senior Planner |
| <b>Contact</b>     | <a href="mailto:Brandon.goldman@ashland.or.us">Brandon.goldman@ashland.or.us</a> (541) 552-2076<br><a href="mailto:Derek.severson@ashland.or.us">Derek.severson@ashland.or.us</a> (541) 552-2040 |  |
| <b>Item Type</b>   | Requested by Council <input checked="" type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input type="checkbox"/><br>Presentation <input type="checkbox"/>                 |  |

## **SUMMARY**

The City Council is being asked to take action on second reading of an ordinance to 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.’ In addition, the City Council is being asked to adopt written findings which describe the basis for amending the land use code. The City Council held a public hearing and approved first reading of these land use code amendments at the February 21, 2023 meeting.

## **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 restaurateurs 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.





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- **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 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.



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- **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 do not include allowances for Food Trucks to be located in public parking spaces or in on-street parking areas outside of designated Special Events.

The City Council conducted a public hearing and approved first reading of the attached ordinance on February 21, 2023.

## **FISCAL IMPACTS**

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**

This proposed ordinance was discussed during the Council public hearing conducted on February 21, 2023, and was approved as presented and forwarded to second reading by the City Council.

## **SUGGESTED NEXT STEPS**

Staff concurs with the Planning Commission and recommends that the Council approve the proposed ordinance and adopt the attached written findings.

Motions for approval of second reading of the ordinance, and for approval of the findings document are detailed below:

### **1. Motion for Approval of Ordinance**

The attached ordinance is consistent with the Planning Commission recommendation.

- I move to approve second reading of Ordinance 3217, which is titled, *"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"*

### **2. Motion for Approval of Findings of Fact**

The attached findings document reflects the Planning Commission recommendation.

- I move to approve the Findings of Fact and Conclusions of Law document dated March 7, 2023.

## **REFERENCES & ATTACHMENTS**

**Attachment 1:** Draft Ordinance #3216



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## Attachment 2: Draft Written Findings

| Planning Commission Meeting | Packet                                   | Video                               | Minutes                              |
|-----------------------------|--|-------------------------------------|--------------------------------------|
| June 28, 2022               | <a href="#">2022-06-28 PC Packet.pdf</a> | <a href="#">2022-06-28 PC Video</a> | <a href="#">2022-06-28-Minutes</a>   |
| September 13, 2022          | <a href="#">2022-09-13 PC Packet.pdf</a> | <a href="#">2022-09-13 PC Video</a> | <a href="#">2022-09-13-Minutes</a>   |
| September 27, 2022          | <a href="#">2022-09-27 PC Packet.pdf</a> | <a href="#">2022-09-27 PC Video</a> | <a href="#">2022-09-27-Minutes</a>   |
| October 25, 2022            | <a href="#">2022-10-25 PC Packet.pdf</a> | No video available                  | <a href="#">2022-10-2022-Minutes</a> |
| December 13, 2022           | <a href="#">2022-12-13 PC Packet.pdf</a> | <a href="#">2022-12-13 PC Video</a> | <a href="#">2022-12-13-Minutes</a>   |
| February 21, 2023           | <a href="#">2023-0221 CC Packet</a>      | <a href="#">2023-0221 CC Video</a>  | Minutes not yet available.           |



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

5  
 6 **WHEREAS**, the City Council of the City of Ashland conducted duly advertised public hearings  
 7 on the above-referenced amendments on February 21, 2023.; and

8  
 9 **WHEREAS**, the City Council of the City of Ashland, following the close of the public hearing  
 10 and record, deliberated and conducted first and second readings approving adoption of the  
 11 Ordinance in accordance with Article 10 of the Ashland City Charter.; and

12  
 13 **WHEREAS**, the City Council of the City of Ashland has determined that in order to protect and  
 14 benefit the health, safety and welfare of existing and future residents of the City, it is necessary  
 15 to amend the Ashland Municipal Code and Land Use Ordinance in manner proposed, that an  
 16 adequate factual base exists for the amendments, the amendments are consistent with the  
 17 comprehensive plan and that such amendments are fully supported by the record of this  
 18 proceeding.

19  
 20 **THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

21 **SECTION 1.** The above recitations are true and correct and are incorporated herein by this  
 22 reference.

23 **SECTION 2.** Table 18.2.2.030 [Uses Allowed by Zone] of the Ashland Land Use Ordinance is  
 24 hereby amended to include the following.

|                           | R-<br>1 | R-<br>1-<br>3.5 | R-<br>2 | R-<br>3 | RR | WR | C-<br>1<br>&<br>C-<br>1-<br>D | E-<br>1 | M-<br>1 | Special Use Standards |
|---------------------------|---------|-----------------|---------|---------|----|----|-------------------------------|---------|---------|-----------------------|
| <b>E. Commercial Uses</b> |         |                 |         |         |    |    |                               |         |         |                       |

|   |                                      |                 |                 |                 |                 |                 |                 |                 |                 |                 |                               |
|---|--------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------------------|
| 1 | <b><u>Food Trucks &amp; Food</u></b> | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>S</u></b> | <b><u>S</u></b> | <b><u>S</u></b> | <b><u>Sec. 18.2.3.145</u></b> |
| 2 | <b><u>Carts</u></b>                  |                 |                 |                 |                 |                 |                 |                 |                 |                 |                               |

4 **SECTION 3.** Section 18.2.2.030.H. [Temporary Uses] is hereby amended to read as follows:

6 **18.2.2.030.H. Temporary Uses.** Temporary uses require a conditional use permit under chapter 18.5.4, except as follows:

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

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

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

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

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

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

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

- A. **Within the Detail Site Review overlay zone as described in ALUO 18.4.2.040.C,**  
**outdoor eating areas and food vendors are among the required elements of the**  
**Detail Site Review Plaza Space Standards (ALUO 18.4.2.040.D.2). Where food**  
**trucks, food carts, and associated outdoor eating areas, can operate within**

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existing approved plaza space without alteration of the existing site plan, a food vendor must obtain a ministerial Food Truck Permit but no further land use approval is required.

- 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 zones, food trucks and food carts may operate within existing private parking lots where there are at least five off-street parking spaces in place, the existing approval did not include mixed use or joint use parking credits, and no more than 20 percent of the required off-street parking spaces are proposed to be used by food trucks and food carts. Food truck, Food Cart, and associated accessory item placement shall not interfere with vehicular or pedestrian circulation on site. A food vendor must obtain a ministerial Food Truck Permit but no further land use approval is required.
- C. Within the C-1-D zone, the operation of a food truck or food cart requires a Conditional Use Permit under chapter 18.5.4.
- D. No more than three food trucks or food carts may be approved on a single property under a ministerial Food Truck Permit.
- E. Food truck courts or pods, or the operation of food trucks and food carts on private property outside of existing parking areas or approved plaza space, require Site Design Review approval under chapter 18.5.2.
- F. Short-term operation of a food truck or food cart outside of the parameters of A-B above may be permitted as a short-term event pursuant to AMC 18.2.2.030.H.2.
- 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 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] of the Ashland Land Use Ordinance is hereby amended to include the following.

|  | Croman Mill District Zones <sup>2</sup> |                 |                 |                 |                 |
|--|---|-----------------|-----------------|-----------------|-----------------|
|  | NC                                      | MU              | OE              | CI              | OS              |
| <b>B. Commercial</b>   |   |                 |                 |                 |                 |
| <b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b> | <b><u>S</u></b>                         | <b><u>S</u></b> | <b><u>S</u></b> | <b><u>S</u></b> | <b><u>N</u></b> |

**SECTION 6.** Table 18.3.4.040 [Normal Neighborhood District Uses Allowed by Zone] of the Ashland Land Use Ordinance is hereby amended to include the following.

|  | Normal Neighborhood District Zones <sup>2</sup> |                 |                 |                 |
|--|---|-----------------|-----------------|-----------------|
|  | NN-1-5  | NN-1-3.5        | NN-1-3.5-C      | NN-2            |
| <b>B. Neighborhood Business and Service Uses</b>   |   |                 |                 |                 |
| <b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b> | <b><u>N</u></b>                                 | <b><u>N</u></b> | <b><u>S</u></b> | <b><u>N</u></b> |

**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.**

1  
2 **A. Food Trucks and Food Carts, subject to the requirements of AMC 18.2.3.145.**

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4 **SECTION 8.** Table 18.3.5.050 [North Mountain Neighborhood Uses Allowed by Zone] of the Ashland Land Use Ordinance is hereby amended to include the following.

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|  | North Mountain Neighborhood Zones <sup>2</sup> |                 |                 |                 |                 |
|--|--|-----------------|-----------------|-----------------|-----------------|
|  | NM-R-1-7.5                                     | NM-R-1-5        | NM-MF           | NM-C            | NM-Civic        |
| <b>C. Commercial</b>   |  |                 |                 |                 |                 |
| <b><u>Food Trucks &amp; Food Carts (Subject to the requirements of AMC 18.2.3.145)</u></b> | <b><u>N</u></b>                                | <b><u>N</u></b> | <b><u>N</u></b> | <b><u>S</u></b> | <b><u>N</u></b> |

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11 **SECTION 9.** Section 18.6.1.030.F [Definitions] of the Ashland Land Use Ordinance is hereby amended to include the following new definitions:

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13 **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.**

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17 **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.**

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

22  
23 **Food Truck Vendor. The operator who sells, cooks and serves food or beverages from a food truck or food cart.**

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25  
26 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  
27 ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2023.

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29 ATTEST:

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\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Tonya Graham, Mayor

Reviewed as to form:

\_\_\_\_\_  
Douglas M. McGeary, Acting City Attorney

**BEFORE THE CITY COUNCIL  
CITY OF ASHLAND, JACKSON COUNTY, OREGON**

**March 7, 2023**

In the matter of amendments to the Ashland Municipal Code (AMC) Title 18 Land Use providing 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 new Section 18.3.3.045 ‘Special Permitted Uses’; Amending the ‘Allowed Uses’ Tables 18.2.2.030, 18.3.2.040, 18.3.4.040 and 18.3.5.050; and adding new Definitions in AMC 18.6.1.030.F. )  
)  
)  
)  
) **FINDINGS OF FACT &**  
) **CONCLUSIONS OF LAW**  
)  
)  
)

**PURPOSE:**

The proposal includes amendments to AMC Title 18 Land Use providing additional options for the operation of food trucks and food carts in Ashland.

**PUBLIC HEARINGS:**

Notice was published in the Ashland News on December 2, 2022 prior to the Planning Commission public hearing, and on January 31, 2023 prior to the City Council public hearing. A public hearing was held at the Planning Commission on December 13, 2022 and at the City Council on February 21, 2023. Notice was also sent to the Department of Land Conservation and Development on September 19, 2022.

**SUMMARY OF AMENDMENTS**

The proposal includes the addition of two new section to the Ashland Land Use Ordinance (ALUO), the amendment of sections relating to Temporary Uses and Allowed Uses tables, and the addition of new definitions to provide additional options for the operation of food trucks and food carts in Ashland.

Food vendors and space for outdoor eating have long been recognized among the defining elements for required plaza space in Ashland’s design standards. Food vendors in the form of food trucks and food carts 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 food trucks and food carts provided an affordable outdoor dining option in many communities. Prior to the proposed amendments here, food trucks and food carts in Ashland have been regulated as follows:

- **As Short-Term Events Under 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. This is a ministerial permit with no public notice requirements.

- **As 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 separate permitting, as where an annual Earth Day celebration is held at the ScienceWorks Hands On Children’s Museum each year, the annual celebration including a food trucks court, is seen as accessory to the existing approved museum use and does not require separate permitting.
- **As a Conditional Use Permit Under 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 proposed 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. 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 potential food truck operators.

The Planning Commission initiated this ordinance amendment as allowed under 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 three meetings and conducted a public hearing on December 13, 2022. The City Council considered the ordinance recommended by the Planning Commission at a public hearing on February 21, 2023 and subsequently adopted the ordinance with the following allowances for food trucks and food carts:

- **Short Term Event Permits (AMC 18.2.2.030.H):** The short-term events allowances have been left as they previously existing in the code, however an additional subsection has been provided to specifically allow for food trucks on a private property on a short-term basis of no more than once per month rather than only once per year.
- **Ministerial Permit:** New ‘Food Truck Permit’ language proposed would allow up to three trucks or food carts in approved plaza spaces and private parking lots through a ministerial permit.
- **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 do not include allowances for Food Trucks to be located in public parking spaces or in on-street parking areas outside of designated Special Events.

The City Council ultimately concurred with the Planning Commission that food trucks and food carts can serve as incubators for restaurateurs to make a more affordable entry into the business without a bricks-and-mortar investment which could help to diversify the local economy while also activating and enlivening under-utilized spaces. The Council found that the changes proposed here would provide “*Clear and objective standards for development reviews that provide for a quick and predictable approval process with a reduced amount of uncertainty*” as sought in Policy 2.g of Goal 7.07.03 of the Economic Element of the Ashland Comprehensive Plan.

## REVIEW CRITERIA

The decision of the City Council together with the recommendation by the Planning Commission was based on consideration and findings of consistency with the following factors.

- A. Consistency with City of Ashland approval criteria for legislative amendments, AMC 18.5.9.020.B
- B. Consistency with City of Ashland Comprehensive Plan and Other City Policies
- C. Consistency with Oregon Statewide Planning Goals

## EVALUATION AND COUNCIL FINDINGS:

### ***A. Consistency with City of Ashland approval criteria for legislative amendments and zoning map amendments, AMC 18.5.9.020.B***

#### **18.5.9.020 Applicability and Review Procedure**

*Applications for Plan Amendments and Zone Changes are 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. (Ord. 3195 § 5, amended, 12/01/2020)*

**Finding:** Ashland Municipal Code (AMC) 18.5.9.020.B permits legislative amendments to meet changes in circumstances and conditions. The City Council finds that with the economic downturn that followed the COVID-19 pandemic, food trucks and food carts can serve as incubators for restauranteurs to make a more affordable entry into the business without substantial bricks-and-mortar investments and can help to enliven and activate under-utilized spaces, thereby benefitting the local economy without creating permanent barriers to properties ultimately developing to their highest and best uses. The Council further finds that existing regulations could serve to discourage food trucks and food carts, while the proposed amendments seek to provide greater options for a quick and predictable approval process with a reduced amount of uncertainty. The City Council finds it is necessary to amend the land use ordinance in order to provide additional options for the operation of food trucks and food carts in Ashland.

***B. Consistency with the Ashland Comprehensive Plan and other City Policies***

The Ashland Comprehensive Plan includes a goal in its Economic Element to “*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 (Goal 7.07.03).*”

**Finding:** The proposed land use code amendments would encourage a greater diversity in the number, type and size of business consistent with the local social needs in providing additional options for small business owners wishing to operate food trucks and food carts in Ashland to benefit the health of the local economy.

The Ashland Comprehensive Plan includes a policy in its Economic Element that calls for “*Clear and objective standards for development reviews that provide for a quick and predictable approval process with a reduced amount of uncertainty (Goal 7.07.03, Policy 2.g).*”

**Finding:** Existing land use regulations limit food trucks and food carts to short term events which are limited to once per year on an individual property; to events which are accessory to established, approved uses; and otherwise require Conditional Use Permit approval, a discretionary land use approval which involves both time and uncertainty which can discourage potential applicants. The proposed land use code amendments provide additional options for the operation of food trucks and food carts which provide quick and predictable ministerial approval process with a reduced amount of uncertainty.

The City Council finds and determines that the proposed land use code amendments are consistent with the Comprehensive Plan and other aforementioned City documents and policies.

### ***C. Consistency with Oregon Statewide Planning Goals***

#### ***GOAL 1: CITIZEN INVOLVEMENT***

*To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

**Finding:** The City of Ashland meets this requirement by having the Planning Commission serve as the Committee on Citizen Involvement, as well as having various citizen commissions with opportunities for the public to testify on general or specific matters. The Planning Commission discussed the proposed code amendments at four public meetings and then conducted a public hearing on December 13, 2022. This hearing was held in a hybrid format, with options to participate both in person, via e-mailed testimony, or electronically via Zoom video-conferencing. Opportunities to provide written and oral testimony were available at all commission meetings and at the public hearing. The Planning Commission recommended approval of the attached ordinance. This Goal is met.

#### ***GOAL 2: LAND USE PLANNING***

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual bases for such decisions and actions.*

**Finding:** The proposed land use code amendments have an adequate factual base, as has been thoroughly described through the application and hearing process. The implementation measures proposed are consistent with Comprehensive Plan polices as noted in these findings. The Goal is met.

#### ***GOAL 3: AGRICULTURAL LANDS***

*To preserve and maintain agricultural lands.*

**Finding:** Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Ashland Urban Growth Boundary (UGB).

#### ***GOAL 4: FOREST LANDS***

*To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

**Finding:** Not applicable because the proposal does not propose any land use regulation changes to forest lands outside of the Ashland UGB.



***GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES***

*To protect natural resources and conserve scenic and historic areas and open spaces.*

**Finding:** The proposed land use code amendments will not negatively impact inventoried Goal 5 resources.

The primary change here would be to create a ministerial permitting process for the operation of food trucks and food carts within existing, approved plaza spaces requiring no physical alteration to the site or within existing, approved parking lots where the truck or cart would not remain in place for more than five consecutive days. Ashland's Physical and Environmental Constraints Review procedures in AMC 18.3.10 and Water Resource Protections Zones Ordinance in AMC 18.3.11 are not proposed to be modified and would remain in place to protect natural resources from negative impacts.

Existing procedures requiring Conditional Use Permit approval, with review by the Historic Preservation Advisory Committee, would be retained for any proposed food truck or food cart operations within the historic downtown's C-1-D zoning district. Similarly, proposals involving food truck pods, 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 approval. As with other Site Design Review applications, those within the historic districts would be subject to review by the Historic Preservation Advisory Committee. The Goal is met.

***GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY***

*To maintain and improve the quality of the air, water and land resources of the state.*

**Finding:** The City of Ashland has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the existing goals and policies, and does not negatively impact Goal 6. This Goal is met.

***GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS***

*To protect people and property from natural hazards.*

**Finding:** The City of Ashland has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the existing goals and policies, and the proposed additional options for the operation of food trucks and food carts in Ashland does not negatively impact Goal 7.

AMC 18.3.10 'Physical and Environmental Constraints Overlay' regulates the development of flood plain corridor lands, hillside lands, hillside lands with severe constraints, and wildfire lands. The standards applying to the aforementioned natural hazard areas follow the same provisions for any proposed development, and the proposal will not alter the applicability of the city's Physical and Environmental Constraints

Overlay regulations or the protection from natural hazards they were implemented to provide.

Generally, there are few commercially zoned areas subject to these regulations, and the primary change proposed here would create a ministerial permitting process for the operation of food trucks and food carts within existing, approved plaza spaces requiring no physical alteration to the site or within existing, approved parking lots where the truck or cart would not remain in place for more than five consecutive days. In both cases, the proposed changes seek to provide greater options to operate food trucks and food carts in already developed areas where there would be no additional impacts to physically-constrained areas, and thus no change in existing protection from natural hazards for people or property. This Goal is met.

***GOAL 8: RECREATIONAL NEEDS***

*To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

**Finding:** The City of Ashland has an acknowledged Comprehensive Plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 7 and recreational needs. This Goal is met.

***GOAL 9: ECONOMIC DEVELOPMENT***

*To provide adequate opportunities throughout the state for a variety of economic activities vital to health, welfare, and prosperity of Oregon's citizens.*

**Finding:**

With the economic downturn that followed the COVID-19 pandemic, food trucks and food carts can serve as incubators for restauranteurs to make a more affordable entry into the business without substantial bricks-and-mortar investments and can help to enliven and activate under-utilized spaces, thereby benefitting the local economy without creating permanent barriers to properties ultimately developing to their highest and best uses. While existing regulations could serve to limit opportunities and discourage food truck and food cart operators, the proposed amendments seek to provide greater options for a quick and predictable approval process with a reduced amount of uncertainty.

The proposal does not modify the existing goals and policies related to Goal 9 and economic development, but rather seeks to provide additional opportunities for the operation of food trucks and food carts in Ashland by providing greater options for a quick and predictable approval process with a reduced amount of uncertainty. This Goal is met.

***GOAL 10: HOUSING***

*To provide for the housing needs of citizens of the state.*

**Finding:** The City of Ashland has an acknowledged Comprehensive Plan that complies

with this goal and the proposal does not modify the existing goals and policies related to Goal 10 and housing needs, or apply to residentially-zoned property. This Goal is met.

***GOAL 11: PUBLIC FACILITIES AND SERVICES***

*To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

**Finding:** The City of Ashland has master plans in place for water, wastewater and stormwater that address projected population growth and development in the Ashland city limits and UGB. The Water Master Plan was completed in 2020 and projects and plans for an adequate water supply for a 20-year planning period. The Wastewater Master Plan was completed in 2012 and projects and plans for an adequate water supply for a 20-year planning period. The Stormwater and Drainage Master Plan was completed in 2020 and projects and plans for an adequate water supply for a 20-year planning period. This Goal is met.

***GOAL 12: TRANSPORTATION***

*To provide and encourage a safe, convenient and economic transportation system.*

**Finding:** The City of Ashland adopted a Transportation System Plan (TSP) in 2013 which has gone through the post acknowledgement amendment process. The transportation system is planned to accommodate the population growth and development of the community for the 20-year planning period.

The City of Ashland has not evaluated the impacts of the proposed additional options for the operation of food trucks and food carts on the transportation system. The amendments are not site-specific and therefore do not affect the functional classification of any street. The amendments allowing ministerial permitting of food trucks or food carts within existing, approved parking lots or existing, approved plaza space where food vendors and outdoor dining are already among the required plaza space elements will have no measurable impacts on the amount of traffic on the existing transportation system, as they are limited to allowing the commercial use of lands already zoned, approved and developed for commercial use, and therefore the amendments do not cause a “significant effect” under ORS 660-012-0060. For food trucks and food carts proposed on private property which will be subject to Site Design Review or Conditional Use Permit approval, individual traffic impact analyses would be required where triggered by the specifics of the individual proposal. This Goal is met.

***GOAL 13: ENERGY CONSERVATION***

*To conserve energy.*

**Finding:** The City of Ashland has an acknowledged Comprehensive Plan that complies with this goal and the proposal does not modify the existing goals and policies related to Goal 13 and energy conservation. This Goal is met.

**GOAL 14: URBANZIATION**

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Finding:** The proposed land use code amendments do not include changes to the Ashland urban growth boundary, and do not encourage sprawl, lower than targeted densities or uncoordinated development. The amendments proposed are limited to allowing additional options for the operation of food trucks and food carts in Ashland. The management of the City’s land use inventories is unaffected by these amendments. This Goal is met.

Based on the above discussion, the proposed amendments to the Ashland Land Use Ordinance are consistent with the statewide planning goals and therefore comply with the requirement that the amendments be consistent with state land use planning law.

Because the amendments are limited in scope, there are no other Administrative Rules applicable to this amendment. Likewise, there are no other applicable Oregon Revised Statutes that are criteria applicable to these amendments. (Note: *Consistency with the Transportation Planning Rule (TPR) is discussed further in this document.*)

**OVERALL COUNCIL CONCLUSIONS**

The City Council finds and determines the approval criteria for this decision have been fully met, based on the detailed findings set forth herein, the detailed findings and analysis of the Planning Commission, and supporting documents together with all staff reports, addenda and supporting materials in the whole record.

Specifically, the Council finds that the proposed land use code amendments are consistent with City of Ashland approval criteria for land use ordinance and zoning map amendments as set forth in ALUO 18.5.9.020.B and are consistent with the City of Ashland Comprehensive Plan and other City policies. The Council finds and determines that the proposed amendments are consistent with the Oregon Statewide Planning Goals.

Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the City Council hereby APPROVES the ADOPTION of the following amendments to AMC Title 18 Land Use as reflected in the attached ordinance.

**Ashland City Council Approval**

\_\_\_\_\_  
City Council Approval

\_\_\_\_\_  
Date

Signature authorized and approved by the full Council this 7<sup>th</sup> day of March, 2023.

Attest:

\_\_\_\_\_  
Melissa Huhtala, City Recorder

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Douglas McGeary, City Attorney

\_\_\_\_\_  
Date