

ORDINANCE NO. 2306

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

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

The City of Hermiston ordains as follows:

(New language is in red and underlined and repealed language has ~~a line through it.~~)

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

116.01 DEFINITIONS.

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

APPROVED LOCATION. A site approved by the Ccity from which a licensee ~~mobile food vendor~~ may operate ~~sell food~~.

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

LICENSE APPLICATION. ~~All initial and later applicants for licenses must make application to the city on an application form required by the city and provide all of the information required on the form and copies of all the documentation and information required by the application.~~

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

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

MOBILE FOOD VENDOR. Any person(s), entity(s) or other parties who sell food from any vehicle, trailer or other conveyance which is self-propelled or which can be pulled or pushed

down a sidewalk, street, or highway and is required to have a Class II, III, or IV mobile food unit license as defined by Oregon statutes and administrative rules and modifications thereof.

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

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

116.02 LICENSE REQUIREMENTS.

(A) It shall be unlawful for any person to ~~Beginning April 1, 2014, a person may not operate a mobile food unit in the city limits without first procuring a license to do so from the City unless an exemption in §116.113 applies. Only one natural person may hold a license and a license holder may hold only one license at a time. No partnerships, corporations, limited liability companies, other entities, or multiple persons are eligible. The license holder must also be the sole holder of a Class II, III, or IV mobile food unit license.~~

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

(C) No person shall be issued more than one mobile food vendor license. A mobile food vendor may also hold a lunch truck license or obtain a short term or event license. For purposes of LLC's, corporations, or other entity ownership, no entity shall be issued a license if a principal of the entity holding a license holds a personal license or is a principal or has an ownership interest in another entity holding a license.

~~(C) A license is granted only for a "vending year" and must be renewed before the beginning date of a new vending year or it shall terminate.~~

~~(D) The present mobile food vendors have a preference to be issued a license provided he or she meets all of the requirements and qualifications of this chapter. The preference for present mobile food vendors shall expire on April 1, 2014. However, the April 1, 2014, deadline for present mobile food vendors to obtain a license may be extended by the City Manager for one month if the City Manager, in his sole opinion and discretion, believes the present mobile food vendor(s) is making a good faith effort to meet the requirements of this chapter to obtain a license.~~

~~(E) Effective September 28, 2018, the total number of one year licenses available to eligible vendors as established in subsection (A) of this section shall be six. The city may allow more licenses if it determines there is a need for more mobile food units to serve city residents. When it is determined by the City Council an increase in the number of licenses is necessary, the City Council shall approve the increase in the number of one year licenses by motion.~~

~~(F) A present mobile food vendor or other mobile food vendor licensee may obtain a license although the licensee does not have an approved location at the time of application or loses an approved location. But if any licensee does not have an approved location for one year, that licensee's mobile food vendor's city license shall be terminated.~~

(Ord. [2206](#), passed 9-9-13; Am. Ord. [2261](#), passed 8-27-18)

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

116.03 LICENSE APPLICATION and ISSUANCE. ~~FOR MOBILE FOOD VENDORS.~~

(A) The aApplication for the license shall be in writing in the form prescribed by the City city containing ~~and shall contain~~ the following information:

(1) Name, ~~and address,~~ phone number and email of the applicant. Entity applicants shall provide the name and address of all principals and the name and address of a person designated to supervise operation of the mobile food unit.

(2) A copy of the state approved Class II, III or IV mobile food unit license issued to the applicant for the vending year. ~~This license must be in the name of only one applicant for the mobile vending license and no other parties.~~

(3) The ~~A copy of the~~ mobile food unit's proposed operating schedule, ~~showing location(s) where the mobile food unit will be used during the day and where it will be parked overnight.~~

(4) A copy of the title and registration of the mobile food unit to be used by the applicant, including trailers, if they are required to be licensed and registered. The title and registration must be in the name of the applicant, ~~and no other parties.~~

(5) Except as provided in Sec 116.10, a ~~A~~ detailed site plan of the proposed location ~~to be approved as required by §116.06, Approved location,~~ showing the exact location of the unit on the site, paved parking, access to and from the site, location of any power service

to the unit, location of buildings and improvements on the site, the address or the County Assessor's map and tax lot for the site, and other particulars required by the Ceity.

(6) Except as provided in Sec 116.10, ~~When a mobile food vendor initially applies for a city license, or when a mobile food vendor applies for a yearly renewal of his or her license, or when a mobile food vendor wants to operate from a new location, the mobile food vendor must have on file with the city or provide the city with a fully filled-out and signed a~~ "Consent to Use Agreement" signed by the owner of the property on which the mobile food unit is proposed to be located, stating how long the licensee may use the property for mobile food vending that vending year.

(7) Payment in full of the application and license fee established by the City.

(8) Such other information as the City Manager or designee deems appropriate to evaluate compliance with the requirements of this subchapter.

(9) A statement that the applicant has read, understands and agrees to comply with the provisions of this Chapter.

(B) (7) The City will conduct a preliminary review of the application. If the City concludes that the application preliminarily complies with all requirements of this Chapter, After submitting the license application and documentation, provided it complies with the terms of this chapter, the applicant shall bring the mobile food unit to a place designated by the Ceity for an inspection to determine if it meets the requirements of this eChapter. It must meet the criteria of this chapter before a license will be issued and it must meet those criteria before the deadline for renewal.

(CB) If compliance with all requirements of this Chapter is demonstrated, the applicant, the application and documentation, and the mobile vending unit meet the requirements of this chapter, the Ceity shall grant the approve license with any modifications required by the City. If the City denies the application, it shall refund the license fee. the proposed location as an "approved location" for the mobile food unit and grant the applicant a license which runs for a period of one vending year. The licensee must operate the mobile food unit as set forth in the site plan for the approved location without modification, unless the modification is approved by the city.

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

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

~~(C) For each vending year, the applicant must pay a yearly license fee as established by resolution of the Council, by good and sufficient check, cash or money order, and that fee must accompany the application. If the applicant is not granted the license, a portion of that sum, as set by resolution of the Council, will be retained as a processing cost and the balance returned to the applicant.~~

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

Section 4. Section 116.04 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.04 DURATION, RENEWAL, MODIFICATION AND TRANSFER OF LICENSES.

(A) Unless earlier revoked, or otherwise provided in this Chapter, a license shall be valid for one vending year.

(B) A license may be renewed for an additional year provided the applicant applies for renewal at least 90 days prior to the start of the next vending year or, for lunch trucks, at least 60 days before expiration. An application submitted after that date shall be considered a new application. The application for renewal may include proposed modifications from the original approval. The application for renewal shall contain the same information as required for a new application, a renewal application fee and license fee, a new or renewed consent agreement, and may require a new inspection. The renewal will be granted only if the applicant demonstrates compliance with the provisions of this Chapter as for a new license.

(C) The operation of a mobile food vendor may be substantially modified only with the prior approval of the City. A substantial modification means any modification to the terms and conditions on which the license or renewal was based. It includes, but is not limited to, a change in location or a replacement mobile food unit or lunch truck. The City may require such information as it deems necessary to evaluate the modification and may require an inspection.

(D) A license may be transferred to a person eligible to hold a license. The transfer must be approved in advance by the City. The transfer request shall include documentation of eligibility and a document signed by the transferee stating that the transferee has read, understands and agrees to comply with the provisions of this Chapter with any required fee. A license transfer may be

conditionally approved notwithstanding that a sale or other legal transfer of the business, lunch truck or mobile food unit has not become final, provided that documentation of the final such transfer must be provided within 45 days of the approval, after which the conditional transfer approval expires. The City may establish a fee for processing transfers. The City may, in its discretion, require a new inspection.

(E) In addition to failure to demonstrate compliance with this Chapter, the City may deny renewal if it determines that the applicant is unlikely to comply in the future based on a history of being notified of repeated or serious violations regardless of whether the City took formal enforcement action.

~~(A) The license may be transferred to one natural person by a good and sufficient notarized assignment subject to all the other terms and conditions of this chapter.~~

~~(B) All transfers of licenses must be approved by the city upon good and sufficient proof that the person to whom the license is being transferred is eligible to obtain a license as set forth in this chapter.~~

~~(C) Upon a transferee being approved by the city and before the city will issue a new license to the transferee, the transferee must file a new application with the city the same as when a license is renewed and meet the same criteria as a new applicant and gain the same approvals as a new applicant before the city will issue the license to the transferee. Nevertheless, if a license is being transferred from one of the original vendors or assigns operating a at a location indicated above, the location shall be exempt from the requirement to be at least 400 feet from a licensed restaurant.~~

~~(D) To facilitate a transfer of a license from a seller to a buyer, contingent upon the transfer taking place, the city may preapprove a buyer for a license upon the person making application for a license, and complying with all the terms of this license. Once the transfer takes place the city will issue the license to the transferee. However, if the city preapproves a buyer for a license, if proof of the transfer is not provided to the city within 45 days, the preapproval lapses and is of no force or effect.~~

Section 5. Section 116.05 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.05 LIMIT ON AVAILABLE LICENSES. ~~APPLICATIONS FOR FUTURE LICENSES COMING AVAILABLE.~~

(A) Except as otherwise provided in this Chapter, the maximum number of mobile food unit licenses is six.

~~When the number of licenses drops below the number authorized, the city shall offer a license to applicants in the order of receipt of their applications for a future license on file with the city, with the earliest applicants having priority. If within 180 days of the mailing of the notice of eligibility the person does not make an approved application to the city and pay the application fee to the city and obtain the license, the license shall be offered to the next applicant in priority.~~

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

~~To be an applicant on the waiting list for a license, the person shall fill out an application for a future mobile vending license prepared by the City Administrator including the information required on the application and pay a \$500 application fee. At any time an applicant may withdraw the application and obtain a refund of the fee.~~

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

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

Section 6. Section 116.06 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.06 RESERVED ~~GROUND FOR TERMINATION OR NONRENEWAL OF~~ LICENSE

~~(A) A mobile food vendor's license is subject to being terminated or not renewed, or both, if the mobile food vendor, his or her agents or employees are found to have delivered, possessed, furnished or sold any alcoholic beverages or controlled substances from the mobile food unit or the approved location.~~

~~(B) A mobile food vendor's license is subject to being terminated if he or she operates from a location that has not been approved by the city.~~

~~(C) A mobile food vendor's license is subject to being terminated if the licensee does not have an approved location for one year.~~

~~(D) A mobile food vendor's license is subject to being terminated if the license is not renewed before the beginning date of a new vending year.~~

Section 7. Section 116.07 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.07 APPROVED LOCATION.

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

(B) No new application will be approved that is 400 feet or less from ~~Except for present mobile food vendors in their present locations, approved locations must be more than 400 feet from any other mobile food~~ unit vendor as measured from the closest property line of each approved location. Vendors in operation on September 9, 2013, however, may continue to operate, including on renewal, in their existing location regardless of whether the location is 400 feet or less from another vendor existing on September 9, 2013.

(C) ~~For a location to be approved it must have~~ Sufficient paved parking immediately adjacent to the mobile food unit of at least three paved parking spaces specifically designated for the use by the mobile vending unit.

(D) ~~For a location to be approved, T~~ the mobile food unit and its paved customer parking spaces must be located at least 20 feet from the property line of an adjoining property owner unless the possessor of the adjoining property consents, in writing, to allow the mobile food unit and its paved customer parking to be closer to ~~his or her~~ the adjoining property.

(E) A mobile food unit must be located more than ~~For a location to be approved, it must be~~ 400 feet ~~or more~~ from the property line of a business having a restaurant license, except for the existing ~~present~~ locations of a licensed mobile food unit ~~present mobile food vendors~~ operating on January 1, 2019.

(F) ~~For a location to be approved, it must meet reasonable criteria for~~ The property, mobile food unit and lunch truck location shall not present a safety risk to pedestrians or vehicles and not ~~safety and not~~ adversely affect access and parking for the employees and customers of adjoining property owners, ~~as to patrons using their access and parking. The locations of present mobile food vendors also must meet these criteria.~~

(G) ~~Mobile food vendors may operate from an approved location indefinitely and are not require to move to another approved location except as required by this chapter.~~

(H) ~~G~~ If after approving a location, the C ~~e~~ity determines, in its reasonable discretion, that the approved location, including the location of the unit or lunch truck, presents a safety hazard due to changed conditions, it may ~~causes a safety hazard to people or property, it can~~ withdraw or ~~modify~~ the approved location. ~~licensee's right to use the location and the licensee must move to another approved location.~~ Absent exigent circumstances, the licensee shall have a minimum of 60 days to relocate.

~~(H)~~ Approved mobile food unit locations are limited to Mobile food vendors are permitted to operate in any commercial zone of the Ccity; provided, that all other licensing, location and siting requirements within this Cchapter or the zoning code are met.

Section 8. Section 116.08 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.08 OPERATION AND SITE REQUIREMENTS.

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

(A) Awnings attached to the mobile unit are allowed but no poles, supports or guy wires to the ground may be attached to the awning.

(B) At least one 35-gallon trash receptacle with a tilting lid must be provided for the patrons of the mobile food vendor and must be emptied when three-fourths full.

(C) The site must ~~at all times~~ be kept free and clear of all trash and debris. ~~The licensee is responsible and liable for this cleanup.~~

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

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

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

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

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

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

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

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

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

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

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

(O) Mobile food units and lunch trucks must be mobile and must be moved onto private property more than 400 feet away from their approved location ~~by 10:00 p.m. each evening and not return to their approved location until 6:00 a.m. the following morning,~~ or to the unit may be moved to another site that ~~which~~ is less than 400 feet away if it is parked behind a site-obscuring fence so it is not visible in any manner from a public street or from the approved location it uses. Mobile food units must be moved not later than 10:00 p.m. and not return to the approved location earlier than 6:00 a.m. Lunch trucks must be moved when not in use. ~~and does not return to its approved location until 6:00 a.m. the following morning.~~

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

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

Section 9. Section 116.09 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.09 MOBILE FOOD UNIT REQUIREMENTS.

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

(A) ~~For present mobile vendors, existing unit color and unlighted signage on their units are acceptable, with no other signage allowed on or off the unit. By April 1, 2019, and for new mobile food vendors, not listed in this chapter, the following requirements apply:~~

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

~~(B)~~ (2) Signage on the unit may only be painted on the unit and may not take up more than 30% of the surface area of each side, back or front of the unit. (3) No lighted signs or attractants of any kind including rotating or flashing lights are allowed at any time on the unit or approved location except one sign placed on or in the unit ~~a sign~~ no larger than 24 inches, ~~which says "OPEN."~~ Lights that ~~which~~ light the ground patrons stand on may be used but no lights may be shined in the direction of traffic to draw attention to the business or onto adjacent properties. No strobe lights are permitted.

~~(C)~~ (B) When the license is renewed the first time in 2015, and all renewals thereafter, The unit must be of a good and well-kept appearance and may not have any rust, substantial dents, missing lights or bumpers.

~~Starting April 1, 2023, all mobile food vendors may only operate out of a self propelled van not longer than 26 feet in length. No trailers or other rolling stock may be used.~~

Section 10. Section 116.10 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.10 SHORT-TERM MOBILE FOOD LICENSE, EVENT LICENSE.

(A) ~~Beginning September 28, 2018,~~ The Ceity shall ~~make~~ may issue short-term licenses, in addition to the six mobile food vendor licenses, available for a maximum of 90 consecutive calendar days.

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

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

(D) The approved location requirements in §116.06 apply ~~are in effect~~ with the following modifications:

(1) The ~~An approved~~ location shall be more than 200 feet from any other mobile food vendor as measured from the closest property line of each approved location.

(2) ~~For a location to be approved it~~ The location shall have sufficient paved parking immediately adjacent to the mobile food unit of at least two paved parking spaces specifically designated for use be the mobile vending unit.

(3) The location ~~For a location to be approved, the mobile food unit must~~ shall be at least five feet from the property line of an adjoining property owner unless the possessor of the

adjoining property consents, in writing, to allow the mobile food unit or lunch truck to be closer to ~~his or her~~ the adjoining property.

(4) The location ~~For a location to be approved,~~ it shall be 200 feet or more from the property line of a business having a restaurant license.

(E) The operation and site requirements in §116.07 apply. ~~are in effect~~

(F) The mobile food unit requirements in §116.08 apply. ~~are in effect except for §116.09(C).~~ A mobile food unit applying for a short-term license is not required to be a self-propelled van. Push carts, trailers, and self-propelled vans shall all be eligible for a short-term license.

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

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

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

1. The location requirements of Sections 116.03 and 116.06 shall not apply but the applicant for a license to operate a temporary event shall provide proof of authorization from the event organizer and property owner on which the unit or truck will be located. The unit or truck may be located in right of way closed for the event with the approval of the City.

2. The temporary event license shall be valid the day(s) of the event. It shall be placed on the site no earlier than 6:00 a.m. on the first day and removed no later than 10:00 a.m. on the date following the event with the site left in its prior condition.

3. An application for a temporary event license must be received by the City at least 10 days in advance and contain all information required by the City, including any applicable fee.

4. Unless waived in the license by the City based on the particular circumstances of the event, all provisions of Sections 116.07 and 116.08 (mobile food units) or Sec. 116.10 (lunch trucks) apply.

Section 11. Section 116.11 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.11 LUNCH TRUCKS. ~~EXEMPTIONS~~

(A) The City may issue a maximum of two lunch truck licenses.

(B) Lunch truck licenses are valid for a one calendar year from issuance. They may be renewed in the same manner as a mobile food unit license provided the renewal application is received at least 60 days before the license expires.

(C) The application requirements, including unit inspection, of Section 116.03 shall apply but no consent to use agreement is required. The City, by resolution, may establish an application fee.

(D) Lunch trucks shall not operate from the public right of way except for right of way closed to public by the City during construction, with City approval. Lunch trucks shall operate only from the location approved by the possessor of the property or the authorized representative of the construction site on which the unit operates. The licensee shall provide proof of approval to the City.

(E) Lunch trucks shall be limited to operating only between the hours of 11:00 a.m. and 1:00 p.m., in addition, if the property served by the lunch truck operates additional shifts, the lunch truck may operate for a two-hour period encompassing the normal lunch break for each shift. In no event shall a lunch truck operate more than 6 hours in any one 24-hour period.

(F) Lunch trucks may operate in any commercial, office or industrial zone except that no lunch truck may operate on or serve a retail business or shopping center.

(G) Lunch trucks shall primarily serve the workers and employees on the site, with only incidental sales to the general public.

(H) Unless waived by the City, based on the particular circumstances of the event, all the provisions of §116.07 and 116.08 (mobile food units) apply except 116.07 (P).

(I) Lunch trucks shall be self-propelled and self-contained vehicles no longer than 26 feet.

~~(A) This chapter does not apply to mobile food vending on public property, or property controlled by a public entity, it being the intent of this chapter that those public entities are entitled to control vending on their properties as they deem appropriate. This includes all local, state and federal government property.~~

~~(B) This chapter does not apply to mobile food vending at private events of brief duration including banquets, weddings and other catered events, so long as the food is not for sale to the public.~~

Section 12. Section 116.12 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.12 EXEMPTIONS. ~~HEARING PROCEDURES.~~

(A) This Chapter does not apply to mobile food vending on public property, or property controlled by a public entity, it being the intent of this Chapter that those public entities are entitled to control vending on their properties as they deem appropriate. This includes all local, state and federal government property.

(B) This Chapter does not apply to mobile food vending at private events of brief duration, not to exceed four hours, including banquets, weddings and other catered events, so long as the food is not for sale to persons not attending the event.

~~(A) Any mobile food vendor or license applicant who disputes a decision by the city about the denial of a license or notice of termination of a license may file his or her written complaint with the City Manager. If not satisfied by the City Manager's decision, the mobile food vendor or applicant has seven days from the date of the City Manager's written decision to appeal to the City Council.~~

~~(B) The Council, acting as the review authority for disputes, may:~~

~~(1) Hear and determine appeals of decisions of the City Manager, prescribe the forms, rules and regulations relating to appeals, and take other actions consistent with the appeal function. In reviewing a decision or dispute, the Council may take evidence and make an investigation. The Council shall give notice of determinations and shall file its determination with the City Recorder. A determination of the Council becomes final upon its filing with the City Recorder.~~

~~(2) Review of the final determination of Council under this chapter by any aggrieved party, including the city, shall be by writ of review to the Circuit Court of Umatilla County, Oregon, as provided in ORS 34.010 through 34.100.~~

Section 13. Chapter 116 of the Hermiston Code of Ordinances is amended by adding Section 116.13 to read:

116.13 GROUNDS FOR TERMINATION OR NONRENEWAL OF LICENSE.

Issuance of a license under this Chapter does not grant any property or contract right. A license may be suspended, modified or terminated, or renewal denied, for:

(A) A single violation of any provision of this Chapter, the terms and conditions of the license, other provision of this Code or state law that the City determines jeopardizes public health or safety. Examples include but are not limited to delivery, possession, furnishing or selling any alcoholic beverages or controlled substances from the mobile food unit or lunch truck or failure to obtain any required food service license or food handlers permit(s). Violations under this paragraph may result in immediate suspension, subject to appeal as provided below.

(B) Multiple or ongoing violations of this Chapter or any terms and conditions of the license in any calendar year or failure to correct a violation within the time specified by the City.

(C) Revocation of a consent to use agreement by the owner of the property and failure to obtain City approval of a new approved location and consent to use agreement within 45 days.

Section 14. Chapter 116 of the Hermiston Code of Ordinances is amended by adding Section 116.14 to read:

116.14 DENIAL, REVOCATION OR SUSPENSION PROCESS.

The city shall provide written notice of denial, revocation or suspension of a license stating the reasons thereof and, as applicable, the cure period and effective date of the revocation or suspension.

Section 15. Chapter 116 of the Hermiston Code of Ordinances is amended by adding Section 116.15 to read:

116.15 APPEAL PROCEDURES.

Any applicant or licensee may appeal a decision by the City by filing an appeal pursuant to Chapter 136.

Section 16. Section 116.99 of Chapter 116 of the Hermiston Code of Ordinances is amended to read:

116.99 VIOLATION PENALTIES.

In addition to, and not in lieu of suspension, revocation or denial of renewal, a~~Any person, persons, firms, organizations, associations or corporations~~ in violation of this Chapter commits~~a Class C violation. For continuing violations, each day of a violation is a separate offense. In addition, the City may declare the continued operation to be a nuisance subject to Chapter 92, or bring an action enjoining any violation for operation of a mobile food unit or lunch truck.~~

Section 17. The effective date of this ordinance shall be thirty days after enactment.

ADOPTED by the Common Council this 22nd day of June 2020.
SIGNED by the Mayor this 22nd day of June 2020.

David Drotzmann, MAYOR

ATTEST:

Lilly Alarcon-Strong, CMC, CITY RECORDER