

CITY OF DUVALL
WASHINGTON
ORDINANCE NO. 1315

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, ALLOWING FOR MOBILE FOOD UNITS THROUGH A DEMONSTRATION PROGRAM, ESTABLISHING REGULATIONS FOR A MOBILE FOOD UNIT INTERIM ZONING ORDINANCE; SETTING A CITY COUNCIL PUBLIC HEARING FOR MAY 2, 2023; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the purpose of this interim zoning Ordinance is to establish the regulatory parameters necessary for allowing mobile food units to operate within the City in a manner that promotes economic development and tourism as well as protects the public health, safety, and welfare; and

WHEREAS, the proposed mobile food unit regulations were first introduced to the Planning Commission for review and discussion at their regularly scheduled meeting on April 13, 2016; and

WHEREAS, the proposed mobile food unit regulations were further discussed with the Planning Commission at their regularly scheduled meetings on June 8, 2016, and April 25, 2018; and

WHEREAS, the proposed mobile food unit regulations were discussed with the City Council at their regularly scheduled meetings on June 7, 2016; April 17, 2018; and March 21, 2023; and

WHEREAS, the City's Community Development Department completed the environmental review of the mobile food unit regulations and issued a Determination of Non-Significance (DNS) on June 2, 2016, no comments were received; and

WHEREAS, the City's Community Development Department provided the Washington State Department of Commerce 60-Day review notice on April 18, 2016, of the City's intent to adopt mobile food unit regulations; and

WHEREAS, interim zoning controls are allowed under RCW 36.70A.390; and

WHEREAS, the City Council will hold a public hearing within 60 days of adopting this interim Ordinance per RCW 36.70A.390.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Interim Regulations Adopted. Duvall Municipal Code Title 14 is now amended to include a new, interim Mobile Food Unit chapter as follows:

A. Purpose.

1. This interim Ordinance aims to establish the regulatory parameters necessary for allowing mobile food units to operate within the City in a manner that promotes economic development and tourism and protects public health, safety, and welfare.

B. Sunset Clause.

1. This Ordinance shall expire under RCW 36.70A.390.

C. Applicability.

1. The regulations of this Ordinance shall apply to all mobile food vendors (hereafter “vendors”) engaged in cooking, preparing, and distributing food and/or beverage with or without charge within city limits from a mobile food unit except those vendors operating under a special event permit or school-sponsored event, whom shall only be required to adhere to the provisions listed in the “Operational Requirements” and “Fuel Source” sections of this Ordinance.
2. The regulations of this Ordinance do not apply to mobile food units operating on private property catering private events not open to the general public.

D. Definitions.

1. In addition to the definitions contained within DMC Chapter 14.06, the following definitions apply to the regulations outlined in this interim Ordinance:
 - a. “Lot, Developed” means any lot or parcel with real property improvements, such as buildings and hard surfaces (such as a parking lot).
 - b. “Lot, Undeveloped” means any lot or parcel in its natural state with no real property improvements, such as buildings and hard surfaces (such as a parking lot).
 - c. “Mobile Food Unit” shall have the exact definition as provided (and as amended) in Washington Administrative Code Section 246-215-01115(75) – see also Section 246-215-01115(50) except for subsection (a)(ii) which does not pertain to this Ordinance.
 - d. “Mobile Food Vendor” or “Vendor” means a person who cooks, prepares, distributes, peddles, sells, or offers for sale food and/or beverages to the public from a mobile food unit.
 - e. “Staging Area” means the total geographical area a mobile food vendor utilizes while engaged in commerce.

E. Approvals Required.

1. To operate a mobile food unit within the City, the business owner shall first obtain and maintain the following:
 - a. Vehicle/trailer licensing and registration from the State of Washington or recognized by the State of Washington;
 - b. Auto Insurance for the mobile food unit, if conducted from a motor vehicle (from the business owner’s preferred insurer);
 - c. All permits and approvals required by King County Public Health Department;
 - d. All permits and approvals required by the Washington State Department of Labor and Industry (L&I), including having a current Labor and Industry Vendor/Concession metal insignia affixed to the mobile food unit;
 - e. Local fire department operational permit (if using liquid propane, charcoal, wood, or oil frying equipment);
 - f. A City of Duvall issued mobile food unit permit;
 - g. A Washington State business license; and
 - h. A City of Duvall-issued business license.
 - i. A City of Duvall sign permit if a commercial A-Board Sign is to be utilized.

F. Application.

1. A business owner (or their authorized agent) operating a mobile food unit within the City shall first make a written application for a mobile food unit permit to the City of Duvall Community Development Department. Only applications deemed complete by the Community Development Director or their designee shall be accepted. A complete application for a mobile food unit permit shall include the following information:
 - a. Name of business;
 - b. Property address(es), tax parcel ID number(s), zoning district(s), and property owner name(s) of the location(s) where the mobile food unit(s) will operate;
 - c. Name, phone number, email contact, and dated signature of the applicant;
 - d. Name, phone number, email contact, mailing address, and dated signature of the business owner (if different from the applicant);
 - e. Notarized signature of the property owner (for applicants proposing to operate on private property not owned by the business owner);
 - f. A current copy of the vehicle registration for the mobile food unit if conducted from a motor vehicle (to be submitted annually with vendor permit renewal application);
 - g. A current copy of the auto insurance for the mobile food unit if conducted from a motor vehicle (to be submitted annually with vendor permit renewal application);
 - h. An 8½" X11" color photo of the mobile food unit while in operation, showing the front and vending side of the unit;
 - i. A brief description of the preparation methods and food/beverage product to be offered for sale, including a copy of the proposed menu;
 - j. A site plan that identifies the linear distance (in feet) between the features listed in the Location Requirements section of this Ordinance and the mobile food unit, as well as the general layout and dimensions of the mobile food unit staging area; and
 - k. A copy of all permits and approvals required by the King County Public Health Department and the Washington State Department of Labor and Industries. This requirement shall be met within thirty (30) days of approval of a mobile food unit permit by the City; however, no mobile food unit shall operate within the City until King County and Washington State permits and approvals have been issued copies supplied to the City.
2. Within thirty (30) days after filing a complete application for a mobile food unit permit, the Community Development Director or their designee shall notify the applicant of the City's decision on the application. The Community Development Director or their designee shall consider the regulations outlined in this Ordinance in determining whether to approve or deny an application. If the application is denied, the applicant shall be provided with a written statement of the reason(s).
3. The Community Development Director or their designee is authorized to include any reasonable conditions of approval necessary to ensure compliance with the purpose and regulatory components of this Ordinance, international building code, and international fire code as adopted in DMC Title 10.
4. An application fee equivalent to the cost of a Temporary Use Permit as listed in the City's adopted Fee Schedule shall be paid by the applicant to the City for the mobile food unit permit.

G. Administration.

1. Mobile food unit permits are valid for twelve (12) months from the date of issuance or until the date the regulations of this Ordinance expire, whichever date occurs sooner. Operation of a mobile food unit without a valid land-use permit is prohibited. Renewal applications should be submitted at least 30 days

before the expiration of the prior permit to avoid a lapse in approval. Mobile food units with an expired permit shall not continue operation while a renewal permit is under review.

2. Mobile food unit permits are non-transferable to other mobile food units or business owners.
3. Mobile food unit permits are valid for operating up to two (2) mobile food units within city limits at any one time by any one business owner.
4. The Community Development Director may immediately revoke or suspend a mobile food unit permit or deny either the issuance or renewal thereof if they find that:
 - a. The application contains fraudulent information or is a misrepresentation of the facts;
 - b. The applicant or vendor has violated or failed to meet any of the regulations of this Ordinance or conditions of the permit;
 - c. Any licenses or permits required by this Ordinance that other governmental agencies issue have been suspended, revoked, or canceled;
 - d. The mobile food unit is being operated in a way that creates a public nuisance or constitutes a danger to public health, safety, and welfare.
5. Upon denial, suspension, or revocation, the City shall notify the applicant in writing of the action taken and the reason(s) therefore. After giving such notice by certified mail or in person, if the vendor has not ceased operation within 24 hours from the time of notification, the City may cause the removal of any mobile foods unit found in violation of this Ordinance and is authorized to store such unit until the owner thereof shall redeem it by paying the removal and storage charges.
6. Any vendor whose City issued permit is denied, suspended, or revoked according to this section shall not be given a new mobile food unit permit upon submittal of a new application for thirty (30) days for the first offense and twelve (12) months for the second offense.

H. Customer Amenities.

1. At least one (1) 30-gallon or greater refuse bin shall be provided by the vendor for use by customers during all hours of operation, situated in a prominent location for each mobile food unit.
2. Outdoor seating accommodations may be provided following the following:
 - a. Seating accommodations shall be set up no sooner than ½ hour before the opening of business and are removed no later than ½ hour after the close of business;
 - b. Seating accommodations shall be situated on private property unless utilized during an authorized event that takes place within a public right-of-way or on the publicly owned property;
 - c. Seating accommodations shall be situated in a manner that does not impede pedestrian or vehicular traffic flow or obstructs vehicular sight-distance triangles at intersections;
 - d. Seating accommodations shall be kept clean, in good working order, and wind resistant; and
3. Canopies shall be adequately anchored to the ground to prevent movement.
4. Food containers and cutlery provided to customers shall be made of compostable material.

I. Fuel Source.

1. Gas systems on mobile food units shall comply with NFPA 58. In addition, container connection must comply with table 2-3.3.2(a) of NFPA 58.
2. The Fire jurisdiction with authority or consulting fire representative shall approve mobile food units.

J. Goods Available for Sale.

1. All goods for sale shall only be stored and displayed within the mobile food unit and its apparatus. No external table, crate, carton, rack, beverage dispenser, or any other device to increase the selling or display capacity shall be utilized by a vendor.

K. Hours of Operation.

1. All business activity related to mobile food units shall be temporary, the duration of which shall not exceed fifteen (15) consecutive hours within twenty-four (24) hours at any location, public or private.
2. All business activity related to mobile food units shall only occur between 7:00 am and 10:00 pm daily. However, set-up and take-down may occur within one-half (½) hours before and after those times.

L. Lighting.

1. All exterior lighting shall be displayed to minimize light trespass onto neighboring properties, buildings, rights-of-way, and critical areas. The Community Development Director is authorized to determine what constitutes an unacceptable amount of light trespass based on field observation and/or complaints from the public and require the offending mobile food unit operation to modify or turn off the offending light source.
2. All internal and external lighting sources shall be stationary.

M. Location Requirements.

1. Mobile food units are permitted to operate within the following zoning classifications and areas of the City:
 - a. Commercial (CO)
 - b. Mixed Use Institutional (MUI)
 - c. Light Industrial (LI)
 - d. Mixed Use-12 (MU-12, non-residential area only)
 - e. Old Town (OT)
 - f. Midtown (MT)
 - g. Uptown-1st Ave (UT-1st)
 - h. Public Facilities/Parks and Open Space (only during a city-permitted special event or school-sponsored event)
 - i. Public Rights-of-Way (only during a city-permitted special event)
2. Mobile food units may remain in the exact location or relocate to other approved locations during permitted hours of operation.
3. Mobile food units shall meet the following setback requirements as measured directly from the shortest distance between the feature and the mobile food unit:

Feature	Minimum Setback
Buildings	10 feet
Fire Hydrants	15 feet
Another Mobile Food Unit	10 feet
Flammable Liquid/Gas Storage Tank	15 feet
Right-of-Way	10 feet
Private Roads and Access Tracts	10 feet
Residential Zone Boundary (R4-R20)	25 feet

4. Mobile food units shall in no way block or obstruct any driveway, drive isle, emergency/fire lane, fire hydrant, sight distance triangle, sidewalk, or designated pedestrian path.
5. Mobile food units shall only be permitted on developed lots.

N. Noise.

1. Mobile food units shall be subject to the noise control requirements of DMC Chapter 6.04.
2. Any generator utilized by the mobile food unit shall be located wholly within the mobile food unit.

O. Number of Allowable Mobile Food Units.

1. In determining the total number of mobile food units permitted to operate simultaneously on any developed lot or within any existing commercial development shall be determined by the following criteria, provided that in no instance shall there be more than three (3) mobile food units on one lot or commercial development (whichever is more restrictive):
 - a. Whether the parking requirements listed under the “Parking and Circulation” section of this Ordinance can be met;
 - b. Whether all setback requirements listed under the “Location Requirements” section of this Ordinance can be met; and
 - c. The set-up area requirements listed under the “Set Up & Storage” section of this Ordinance can be met whether there is sufficient space to meet the set-up area requirements.

P. Operational Requirements.

1. In compliance with Chapter 296-150V of the Washington Administrative Code (WAC), a vendor operating a mobile food unit shall first obtain a permit through the Washington State Department of Labor and Industries (L&I) and affix the insignia to the vehicle (*see Figure 1*).



Figure 1 - L&I Permit Insignia

2. In compliance with Section 105.5.32 of the International Fire Code (IFC), a vendor operating a mobile food unit that is equipped with appliances that produce smoke or grease-laden vapors or utilize liquified petroleum gas (LPG) systems or Compressed Natural Gas (CNG) systems shall first obtain an operational permit from any King County Fire Agency.
Mobile food unit cooking that produces grease-laden vapors shall have proper ventilation and protection following IFC 609 and IFC 904.12.6.
3. A Class K portable fire extinguisher shall be required for any cooking utilizing solid fuels, vegetable oil, animal oils, and/or fats.
4. Fire extinguishers shall meet IFC 904.12.5, IFC 906, and National Fire Protection Association (NFPA) 10 standards. In addition, personnel inside a mobile food unit should have working knowledge of fire extinguisher use and manual activation of the hood suppression system.
5. Sufficient propane shall be provided for uninterrupted use during operation. No propane refueling shall occur without a total shutdown of the mobile food unit and associated operations.

Q. Parking and Circulation.

1. A minimum of three (3) on-site and demarcated parking spaces shall be provided per mobile food unit; however, such spaces do not have to be exclusively reserved for use by mobile food unit customers. In addition, if there is adjacent on-street parking available, two (2) on-street spaces may count toward the minimum parking requirement except within rights-of-way located adjacent to properties zoned Old-

Town or Mid-Town provided; however, the on-street parking spaces cannot be exclusively reserved for use by the vendor or their customers.

2. The staging area for a mobile food unit shall not disrupt established or required vehicular circulation routes.

R. Set-Up & Storage.

1. Each mobile food unit in operation shall have a minimum staging area of 360 square feet with a minimum width of 18 feet and a minimum length of 20 feet.
2. All mobile food vendors shall comply with all laws, rules, and regulations regarding food handling. In addition, all vehicles, equipment, and devices used for handling, storing, transporting, and/or selling food shall comply with all laws, rules, and regulations respecting such vehicles, equipment, and devices as established by the King County Health Department.
3. Mobile food units shall be kept in good repair.
4. Mobile food units shall be designed and situated to serve walk-up customers only—no drive-thru service shall be allowed.
5. Vendors shall be responsible for keeping the staging area of the mobile food unit clear of litter and debris at all times. In addition, the vendor shall make provisions for the proper disposal of all refuse by utilizing refuse containers serviced by Waste Management.
6. At the close of each business day, vendors shall be responsible for taking down and packing up all associated equipment, including outdoor seating accommodations, tents, trash receptacles, etc.
7. All items associated with a mobile food unit operation shall be stored within the mobile food unit or a permitted building (outdoor storage containers are prohibited).
8. Mobile food units stored within city limits during non-business hours shall not be stored on public rights-of-way, public property, or undeveloped lots.

S. Signage.

1. Under state law, signs painted on or permanently affixed to mobile food units shall be allowed by right. Signs displayed on the exterior of mobile food units that are not legally and permanently affixed to the vehicle are expressly prohibited.
2. Each mobile food unit shall be limited to one (1) commercial A-Board sign under a separate temporary sign permit subject to the requirements of DMC §14.50.150.A (Temporary Signs).
3. Using pennant flags, streamers, balloons, or similar displays is prohibited.

T. Utilities.

1. All wastewater generated by a mobile food unit shall be disposed of following state and local regulations. Mobile food units shall be self-contained. Any illicit discharge described herein would warrant immediate termination of the city-issued permit.
2. No discharge of any water, greywater, or black water shall be allowed in landscape strips, storm drains, sanitary sewer systems (including existing connections or facilities), or streets.
3. No permanent/temporary water or sewer connections are allowed.
4. Mobile food units may obtain electrical service from several sources; however, electrical service from a generator shall only be obtained from an onboard generator. No power cable or equipment shall be extended at grade (or above) across any public right-of-way or pedestrian pathway.

Section 2. Duration of Interim Controls. This interim Ordinance shall be in effect for six (6) months, commencing on the effective date and ending six months later, unless extended or unless a final ordinance is adopted amending the Duvall Municipal Code and rescinding the interim controls before their expiration.

Section 3. Public Hearing. According to RCW 35A.63.220 and RCW 36.70A.390, the City Council shall hold a public hearing to accept public testimony on this interim Ordinance within sixty (60) days of its adoption. The Council shall hold this hearing on May 2, 2023, at 7:00 pm or soon after. Immediately following the public hearing, the City Council shall adopt findings of fact.

Section 4. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.


Section 5. Severability. Should any section, paragraph, sentence, clause, or phase of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other sections, sentence, or phrase of this Ordinance.

Section 6. Effective date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON APRIL 4, 2023.

CITY OF DUVALL

APPROVED AS TO FORM

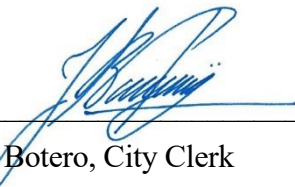

Daniel Kenny (Apr 10, 2023 13:31 PDT)

Daniel P. Kenny, City Attorney


Amy Ockerlander (Apr 10, 2023 11:38 PDT)

Mayor Amy Ockerlander

ATTEST/AUTHENTICATED


John Botero, City Clerk

Effective Date: 04/05/2023










6. Ord 1315 Interim MFU Ordinance

Final Audit Report

2023-04-10

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