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## Oregon Health Authority

## Public Health Division - Chapter 333

## Division 162

## MOBILE FOOD UNITS, COMMISSARIES AND WAREHOUSES

**333-162-0020****Mobile Food Units, General Requirements**

(1) Mobile food units shall comply with the applicable requirements in OAR 333-150-0000 and these rules. The Authority may impose additional requirements to protect against health hazards related to the conduct of the mobile food unit operation and may prohibit the sale of potentially hazardous food.

(2) There are four types of mobile food units:

(a) Class I. These mobile food units can serve only intact, packaged foods and non-potentially hazardous beverages. No preparation or assembly of foods or beverages may take place on the unit. Non-potentially hazardous beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed;

(b) Class II. These mobile food units may serve foods allowed under Class I and provide hot and cold holding display areas from which unpackaged foods are displayed. Self-service by customers of unpackaged foods is not allowed. Preparation, assembly or cooking of foods is not allowed on the unit;

(c) Class III. These mobile food units may serve any food item allowed under Class I and II mobile food units, and may cook, prepare and assemble food items on the unit. However, cooking of raw animal foods on the unit is not allowed;

(d) Class IV. These mobile food units may serve a full menu.

(3) Mobile food units must be maintained and operated as originally designed and approved during the plan review process. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.Pf

(4)(a) Mobile food units must be designed and constructed to move as a single piece. Mobile food units may not consist of multiple components that are assembled at the operating location. This requirement applies to mobile food units designed, constructed or extensively remodeled after February 1, 2020.Pf

(b) Notwithstanding subsection (4)(a) of this rule, a mobile food unit that must be assembled at the operating location because the unit will be in a building or structure that prevents the unit from being moved in one piece may be allowed if the assembly is part of the initial licensing process. Examples of this include a unit located in the upper floors of a high-rise building that cannot be transported through the front entrance or in an elevator.

(5) Notwithstanding OAR 333-150-0000 Section 5-305.11 (D) and subsections (a) and (b) of this section, all operations and equipment shall be an integral part of the mobile food unit. A mobile food unit may use folding shelves or small tables that are integral to the unit for display of non-potentially hazardous condiments and customer single use articles. The shelves or small tables must be designed and installed so that they do not impede the mobility of the unit when retracted.Pf

(a) A Class IV mobile food unit may use one cooking unit that is not integral to the mobile food unit. The cooking unit, may only be used under the following conditions: Pf

(A) The cooking unit must be limited to the use of a barbecue, smoker, hearth oven or similar cooking device that can be transported in conjunction with the mobile food unit. The use of equipment such as flat-top grills or griddles, woks, steamtables, stovetops, ovens or other cooking, storage or holding devices is not allowed. Pf

(B) It must be located adjacent to the mobile food unit; Pf

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- (C) The cooking unit may only be used for cooking and not for processing, portioning, preparation, or assembly of food;Pf and
- (D) A handwashing system shall be provided adjacent to the cooking unit as specified in OAR 333-150-0000 section 5-203.11(C).Pf
- (b) Mobile food units may display packaged, non-potentially hazardous food items, such as cans of soda or bags of chips, off the unit if they are limited to what could be sold during a typical meal period.
- (6) Mobile food unit operators may provide seating for customers if a readily accessible restroom and sufficient refuse containers with lids or covers are provided. The restroom must have a handwashing facility that provides hot and cold running water and meets the requirements of OAR 333-150-0000 sections 6-301.11, 6-301.12, 6-301.20 and 6-302.11.
- (7) Auxiliary storage may be provided if it is limited to impervious, nonabsorbent and covered containers that are stored and located in a manner to preclude contamination or infestation. Overhead protection may be required if necessary to protect auxiliary storage from contamination.Pf
- (a) Auxiliary storage must be limited to items necessary for that day's operation and must be moved from outside the unit and stored inside the unit or at a licensed warehouse or commissary during hours the unit is not in operation.Pf
- (b) No self-service, assembly or preparation activities may occur from auxiliary storage containers. Auxiliary storage may not be used as a substitute for hot and cold holding facilities on the mobile food unit.Pf
- (c) Refrigerators or freezers used for auxiliary storage may not be placed outside of the unit and must be located inside a licensed commissary or warehouse. An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.Pf
- (d) Units licensed prior to February 1, 2020 must meet the requirements of section (7) by January 1, 2023.Pf

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 7-1994, f. & cert. ef. 2-24-94

**333-162-0030**

**Mobile Unit Operation, General**

- (1) Mobile food units must remain mobile at all times during operation. The wheels must be functional and appropriate for the type of unit and not be removed from the unit at the operating location. A removable tongue may be allowed if the tongue can be removed with the use of only simple tools and the tools are available on the unit at all times. Units licensed prior to February 1, 2020 in which the wheels, axels and associated equipment were removed prior to that date are not required to meet this requirement.Pf
- (2) A mobile food unit may not be used in lieu of a properly designed and constructed kitchen for a restaurant or other food service establishment.P
- (3) Catering and Delivery:
- (a) Except as provided in subsection (c) of this section, a mobile food unit that does not have a licensed restaurant or commissary as a base of operation may not provide catering services or sell food wholesale.P
- (b) Mobile food units must sell or dispense food directly from the point of sale on the unit to the ultimate consumer.Pf
- (c) A mobile food unit that does not have a licensed restaurant or commissary as a base of operation may provide catering services if:P
- (A) The unit is equipped with commercial-grade refrigeration equipment that meets or is the equivalent to the requirements of OAR 333-150-0000 Section 4-205.10;
- (B) The unit has obtained a variance from the Oregon Health Authority; and
- (C) The unit provides only single-use articles for use by consumers.
- (d) Mobile food units may utilize third-party delivery services and offer online ordering through the Internet.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 7-1994, f. & cert. ef. 2-24-94

**333-162-0036**

**Mobile Food Units Operating as Single-Event Temporary Restaurants**

A licensed mobile food unit operating as a single-event temporary restaurant as specified under ORS 624.650 may utilize off-unit tables and display areas for non-potentially hazardous foods and dispensed beverages, condiments, and single-service articles such as napkins and utensils. The unit may also utilize off-unit freezers if the food is maintained frozen as required in OAR 333-150-0000 Section 3-501.11. The off-unit tables and display areas allowed under this rule may not be used to conduct activities such as food preparation, assembly or cooking. The display or dispensing of potentially hazardous foods is not allowed.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, adopt filed 01/30/2020, effective 02/01/2020](#)

**333-162-0040**

**Base of Operation**

- (1) Mobile food units and vending machines shall operate from a licensed restaurant, commissary or warehouse.
- (2) If a mobile food unit sells only packaged goods, a warehouse may be accepted in lieu of a commissary.
- (3) Notwithstanding section (1) of this rule, self-contained mobile food units may not be required to have a base of operation if the unit contains all the equipment and utensils necessary to assure the following:
  - (a) Maintaining proper hot and cold food temperatures during storage and transit;
  - (b) Providing adequate facilities for cooling and reheating of foods;
  - (c) Providing adequate handwashing facilities;
  - (d) Providing adequate warewashing facilities and assuring proper cleaning and sanitizing of the unit;
  - (e) Obtaining food and water from approved sources;
  - (f) Sanitary removal of waste water and garbage at approved locations.
- (4) The ability to operate without a base of operation shall be determined by the regulatory authority.
- (5) A mobile food unit may not serve as a commissary or warehouse for another mobile food unit.
- (6) A private home kitchen or a home kitchen licensed by the Oregon Department of Agriculture may not be used as a commissary.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

HD 17-1993, f. & cert. ef. 10-14-93

HD 20-1986, f. 12-22-86, ef. 2-2-87

**333-162-0280**

**Food Transportation, General**

- (1) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package is sealed.

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(2) Food shall be maintained at required temperatures at all times during transport. Mobile food units that do not maintain food at temperatures required in OAR 333-150-0000 section 3-501.16 may be required to provide an on-board power source, such as a battery or generator, to assure maintenance of food at proper temperatures during transit.

(3) After February 1, 2020, mobile food units that serve a complex menu and have never been licensed in Oregon may not utilize cold plates that do not have an associated power source, such as a battery, generator or propane tank, as the sole means for temperature control.

(4) Transport vehicles shall not be used in activities incompatible with safe and sanitary food service operations.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### 333-162-0680

#### Exterior and Overhead Protection

(1) Mobile food units must be secured and protected from contamination when not in operation. This exterior protection may consist of moving the unit to an enclosed location, closing all exterior openings or covering the unit in a secure fashion. Units licensed prior to February 1, 2020 must meet this requirement by January 1, 2023.

(2) Overhead protection shall be provided for mobile food units that are operated outdoors and where food is not covered at all times. The overhead protection may consist of, but not be limited to, roofing, ceilings, awnings, or umbrellas. Overhead protection is not required for cooking units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### 333-162-0880

#### Licensing Procedure

(1) All procedures shall be in accordance with ORS chapter 624 in the licensure of mobile food units, commissaries and warehouses. Any license issued by the Authority pursuant to ORS 624.320 shall expire and may be reinstated on December 31 of each year.

(2) A permanent license number shall be assigned each operator of mobile food units by the regulatory authority.

(3) Each mobile food unit shall be clearly marked with the licensee's name or a distinctive identifying symbol. The lettering shall be at least two inches in height and of a color contrasting with the background color. If a symbol is used, it shall be at least 12 inches in diameter or of an equivalent size. An accurate scale drawing or photograph of the symbol shall be filed with the regulatory authority.

(4) Each mobile food unit shall be clearly marked with a number for purposes of identifying each unit on inspection reports and other communications.

(5) Stored units are not subject to licensure.

(6) All vehicles used as mobile food units shall be kept in good repair and in a sanitary condition while in use.

(7) The license shall be posted in the mobile food unit in public view.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

[PH 11-2020, amend filed 01/30/2020, effective 02/01/2020](#)

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0890**

**Inspection and Enforcement Procedures**

Mobile food units shall comply with the inspection and enforcement procedures in OAR 333-157-0000, 333-157-0010, 333-157-0020, 333-157-0025, 333-157-0027, 333-157-0030 and 333-157-0040.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

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PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0920**

**Plan Review**

(1) Newly constructed or extensively remodeled mobile food units, commissaries and warehouses must undergo plan review and a pre-operational inspection. Mobile food units that have been modified after plan review approval or licensing may be required to revert to the design and construction that was initially approved if required by the regulatory authority. Mobile food units having the sanitary approval of a recognized qualified, independent testing laboratory, or approved by the Authority may be accepted without the submission of plans.Pf

(2) Approval from the administrator to operate after the plan review process does not preclude obtaining required permits or approvals from other agencies or jurisdictions of concern.

(3) Mobile food unit operators must obtain approval from the administrator to add to or change menu items served from the mobile food unit;P

(4) Mobile food units that operate on a fixed route must provide an itinerary to the regulatory authority prior to licensure and at the beginning of each licensing period. Mobile food units operating at specific or multiple locations shall provide a list of all locations to the regulatory authority.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

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PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

**333-162-0940**

**Warehouses**

(1) A licensed warehouse may be used only for the storage of unopened packaged foods, single-service articles, utensils and equipment. All other activities are prohibited.Pf

(2) A warehouse may not be used for the following activities:

(a) Cooling or storage of foods that have been prepared on a mobile food unit;

(b) Preparation, assembly, portioning, handling or service of unpackaged foods; and

(c) Ice making or warewashing;

(3) Activities prohibited in a warehouse in this section must be conducted in a licensed restaurant or commissary.

(4) Warehouses shall be required to meet only those rules necessary to prevent the contamination of stored foods, single-service articles, utensils and equipment. In general, warehouses shall be exempt from the rules relating to finished walls, ceilings or storage bases, light colored surfaces, restrooms, lavatories and utility facilities, provided foods are protected from contamination from dust, insects, rodents, flooding, drainage, or other contaminants.

(5) An ice merchandiser that is used to store packaged ice from a commercial source may be allowed if the ice merchandiser is licensed as a warehouse and secured when the unit is not in operation.

(6) The Assistant Director may impose additional requirements as deemed necessary to prevent the contamination of stored foods, single-service articles, utensils, and equipment.

(7) A warehouse licensed prior to February 1, 2020 that is not in compliance with the provisions of this rule must meet these requirements by January 1, 2023.

**Statutory/Other Authority:** ORS 624.355

**Statutes/Other Implemented:** ORS 624.355

**History:**

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PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### [333-162-0950](#)

#### **Memorandum of Commissary or Warehouse Usage/Verification**

A Memorandum of Commissary or Warehouse Usage/Verification shall be on file with the administrator for mobile units using a licensed food service facility as a commissary or warehouse. This memorandum shall be on a form approved by the Authority, and be updated at least once per year.

**Statutory/Other Authority:** ORS 624.390

**Statutes/Other Implemented:** ORS 624.390

**History:**

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

### [333-162-1005](#)

#### **Civil Penalties**

(1) The Authority or a Local Public Health Authority may impose civil penalties on any person for the following willful violations:

(a) Operation of a mobile food unit, commissary, or warehouse without a current license to do so from the Authority or Local Public Health Authority;

(b) Failure to cease operation of a mobile food unit, commissary, or warehouse that has been closed due to uncorrected priority item violations. This authority shall be limited to those priority item violations identified as creating an imminent or present danger to public health and defined in OAR 333-150-0000 section 1-201.10(B).

(2) For the purposes of section (1) of this rule, the term 'willful' means intentional or deliberate.

(3) The maximum civil penalty for each of the violations listed in section (1) of this rule is \$500 per day of violation.

(4) Civil penalties shall be imposed in the manner provided by ORS Chapter 183 or the equivalent.

**Statutory/Other Authority:** ORS 624.992

**Statutes/Other Implemented:** ORS 624.992

**History:**

PH 12-2012, f. 8-30-12, cert. ef. 9-4-12

PH 14-2006, f. 6-27-06, cert. ef. 7-1-06

HD 10-1997, f. & cert. ef. 7-8-97

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