



ORDINANCE NO. 5958

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE TITLE 5 BY ADDING A NEW CHAPTER 5.06 TITLED MOBILE FOOD UNITS

WHEREAS, the City of Albany is adding Albany Municipal Code (AMC) Chapter 5.06, Mobile Food Units, to address and regulate mobile food units; and

WHEREAS, mobile food units are an increasing business venture that encourages a pedestrian-oriented environment, provides a larger selection of food options to the public, and promotes overall commerce; and

WHEREAS, mobile food units impact traffic, visual landscapes, and change the existing use of property; and

WHEREAS, for the safety of Albany residents, it is important for the City to ensure that Albany's mobile food unit operators are in compliance with state and county standards; and

WHEREAS, lack of regulation has led to confusion for mobile food unit owners and led to increased workloads for City staff.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Amending AMC Title 5, Business License and Regulations. AMC Title 5 is hereby amended to add Chapter 5.06 titled Mobile Food Units:

Sections:

5.06.010 Definitions.

5.06.020 General Provisions.

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5.06.040 Property MFU Authorization Required.

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5.06.010 Definitions.

For the purposes of the Mobile Food Unit (MFU) Code, the following definitions apply. Terms, phrases, words, abbreviations, and derivatives used, but not specifically defined in this section, shall have the meanings commonly accepted in the community.

- (1) Mobile food unit – Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway on which food is prepared, processed, or converted or which is used in selling and dispensing food to the ultimate consumer.

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- (2) Mobile food unit pod – A group of two or more mobile food units on the same legal parcel of land as shown through the county records.
 - (3) Waste – Any byproduct of the activities associated with the MFU including but not limited to blackwater, greywater, fats, oils, and grease.
 - (4) Property – Legal parcel of land on which the MFU is located.
 - (5) Tent – A structure, enclosure, umbrella structure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported in any manner except by air or the contents it protects (see “Umbrella structure”).
 - (6) Umbrella structure – A structure, enclosure, or shelter with or without sidewalls or drops, constructed of fabric or pliable material supported by a central pole or poles (see “Tent”).

5.06.020 General Provisions.

- (1) Purpose - The purpose of the Mobile Food Units (MFU) code is to develop guidelines under which an MFU can establish business within the city of Albany.
- (2) Conformity to State and County Laws - The MFU code shall be construed in conformity with the laws, licenses, and regulations set forth by the State of Oregon and Linn and Benton counties regarding MFUs.
- (3) Saving Clause - If any provision of the MFU code is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality, and enforceability of any other provision of the MFU code.

5.06.030 MFU Permit Required.

Use of an MFU within the city limits of Albany is prohibited unless an MFU permit is first obtained from the city manager or their designee. An MFU permit shall not be required if exempt through AMC 5.06.060.

5.06.040 Property MFU Authorization Required.

A property shall not be used by an MFU without an approved property MFU authorization application or site plan approval for a Mobile Food Unit Pod.

5.06.050 Mobile Food Unit Pods.

- (1) MFU pods are considered only as permanent installations and require site plan approval as identified in the Albany Development Code prior to MFUs locating on the subject property.
- (2) Each MFU within an MFU pod requires an approved MFU permit per AMC 5.06.030.
- (3) Depending on the development, additional authorizations or approvals may be required. MFU pods shall only operate when the entire site is in compliance with all local, state, and federal regulations.

5.06.060 Exemptions.

No part of this section is meant to be understood as removing the requirement of any state or county license. Nor is this section meant to be understood as removing the requirements of any other state, county, or City codes. MFUs shall maintain all valid state and county license(s) while in operation. Property owners and MFUs that do not require a permit shall still comply with all requirements of this chapter.

- (1) An MFU may operate within the Albany city limits for no more than two (2) days within any thirty (30) day period without first obtaining an MFU permit.
- (2) An MFU which does not establish business on any specific property for more than ten (10) minutes shall not be required to obtain an MFU permit.
- (3) MFUs which are closed to the public shall not be required to obtain an MFU permit.
- (4) An MFU may operate within a farmer’s market that holds a valid facility use agreement through the City of Albany without first obtaining an MFU permit.

- (5) Any event hosted by the City of Albany is exempt from an MFU permit. The MFU shall complete any required application and obtain the proper approval directly from the specific City of Albany division hosting the event.
- (6) Any event hosted at the Linn County fairgrounds is exempt from an MFU permit.

5.06.070 Permit and Application Fees.

Permit and application fees for activities governed by this Chapter shall be set by council resolution.

5.06.080 Property MFU Authorization Application. A property owner wishing to have any MFU on their property for more than two (2) days, within any thirty (30) day period, shall first obtain approval. An MFU pod that has obtained all required permits and approvals is excluded from this requirement.

- (1) Application for MFU authorization will minimally contain:
 - a. A scaled site plan of the property and proposed area the MFU will be located, to include at a minimum:
 - i. A completed MFU authorization application form.
 - ii. Total square footage of area proposed for MFU use,
 - iii. Circulation plan of vehicle and pedestrian traffic in and out of the property,
 - iv. Parking plan demonstrating compliance with all Albany Development Code parking requirements once MFU is in place,
 - v. Site layout demonstrating compliance with all setbacks, buffering, and separation requirements as specified in the Albany Development Code (ADC), Building Codes and Albany Fire Department (AFD),
 - vi. Details demonstrating compliance with the standards set forth in this chapter.
- (2) Additional information shall be provided as required by the city manager or their designee.
- (3) Alternatively, an MFU owner may complete a Property Approval Application if the property owner gives signed consent.
- (4) Fees set through AMC 5.06.070 shall be due when application is submitted and are non-refundable.

5.06.090 MFU Permit Application.

- (1) Application for a permit will minimally contain:
 - a. A completed MFU application form.
 - b. A copy of MFUs restroom agreement as required by the county (if no restroom is provided on site).
 - c. A copy of current proof of liability insurance.
 - d. Method of waste disposal (liquid and solid).
- (2) Copies of all necessary permits and agreements held for the county in which the permittee plans to operate. Additional information shall be provided as required by the city manager or their designee.
- (3) Fees set through AMC 5.06.070 shall be due when application is submitted and are non-refundable.

5.06.100 MFU Standards - Zoning.

Unless the property is approved as an MFU pod through the Albany Development Code, MFUs shall only locate on properties within zones defined in Article 4 and Article 5 of the Albany Development Code and that are not used primarily for residential purposes.

5.06.110 MFU Standards - General.

- (1) An MFU must not be a permanent structure and shall:
 - a. remain operable and able to move,
 - b. be properly licensed through the Oregon Department of Motor Vehicles,
 - c. not have the wheels removed,

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- d. keep MFU tongue on site,
 - e. have inflated tires, and
 - f. not have permanent skirting or a base constructed around it.
- (2) An MFU shall only operate on an approved property under sections AMC 5.06.040 or 5.06.050.
 - (3) An MFU must maintain a ten (10) foot minimum clearance from any structure or combustible item not integral to their unit.
 - a. If the MFU is held within an MFU pod they shall be exempt from the ten (10) foot minimum clearance and shall follow guidelines set through the formal review process.
 - (4) MFU operators shall pick up any paper, cardboard, wood, or plastic containers, wrappers, or any litter that is deposited by any person and which was generated from the MFU business from the ground of the property on which they conduct business and from all adjacent public rights-of-way.
 - (5) An MFU may provide awning(s) for shelter to customers. The awning(s) shall be integral to the MFU, have a minimum of seven (7) feet of vertical clearance, and be able to be closed or removed. All awnings must be flame resistant per Oregon Fire Code.
 - a. MFU may provide one additional tent no larger than twelve (12) feet by twelve (12) feet, and one outdoor portable heating unit; provided that both items are removed and stored within the MFU or other structure outside of operating hours.
 - i. Shelter and heating unit must be maintained in working order with no defects that would hinder its intended use.
 - (6) An MFU may provide up to two (2) picnic style tables no greater than eight (8) feet long.
 - a. Tables shall be ADA compliant and permitted through the Albany Building Division.
 - b. Tables shall be removed when the MFU is removed.
 - (7) Any additional lighting shall be integral to the MFU.
 - (8) Each MFU shall be deemed in compliance with the Oregon Fire Code by the Albany Fire Department.
 - (9) An accessible route shall interconnect the MFU, the restrooms, and any provided site elements such as seating, parking, or facilities.
 - (10) An MFU shall remain in compliance with all applicable city, county, and state regulations.

5.06.120 MFU Standards - Utilities.

An MFU shall be fully contained (i.e., provide its own water, power, and waste disposal).

- (1) Electrical connection may be made via a permitted connection approved by the Albany Building Official.
 - a. Connection shall be made within 50 feet of an MFU.
 - b. Connection shall be capable of being reached for operation, maintenance, and inspection.
 - c. Connection cables/cording shall be maintained in good condition.
 - d. Electrical connections shall be covered by a cable protection ramp which has been rated for light vehicle traffic or greater and which has an anti-slip surface.
- (2) Electrical connection may be made via a power generator provided the following standards are met:
 - a. Connection shall be made at a distance no more than 15 feet from the MFU while continuing to comply with all manufacturer guidelines.
 - b. Connection cables/cording shall be maintained in good condition that allows for safe operation of the power generator.
 - c. Generator is placed at least 10 feet from other buildings, structures, and combustibles.
 - d. Generator exhaust is directed away from the MFU, buildings, structures, and combustibles.
 - e. Generator is protected from contact by the public.
 - f. Generator shall not be operated within 300 feet of residential zoning.

- i. Inverter generators may be placed at 100 feet or greater from residential zoning, provided they are rated by the manufacture to operate at 70 decibels or less.
- g. Generators that are non-integral to the MFU shall not be stored outside during non-operating hours.
- h. Electrical connections shall be covered by a cable protection ramp which has been rated for light vehicle traffic or greater and which has an anti-slip surface.

5.06.130 MFU Standards - Signage.

MFUs shall comply with Article 13 of the Albany Development Code.

5.06.140 Forms and Conditions for MFU Permit and Property MFU Authorization.

The permit and/or approval issued shall be in a form deemed suitable by the city manager or their designee.

(1) Property MFU Authorization – In addition to naming the property owner in the approval and other information deemed appropriate, the approval shall contain the minimum conditions.

- a) A property MFU authorization, unless modified, shall not expire.
- b) The approval shall be specific to the property and property owner and is not transferable in any manner.
- c) The property owner in (b) above shall notify the city manager or their designee if they wish to modify an existing approval by submitting a new application under AMC 5.06.040 along with the required fee(s).

(2) MFU Permit - In addition to naming the MFU owner as permittee and other information deemed appropriate, the permit shall contain the following minimum conditions.

- a) Each permit shall terminate 365 calendar days after its issuance and may be renewed by submitting a new application and paying the required fee(s).
- b) The issued MFU permit shall be personal to the permittee only and is not transferable in any manner. The permittee is responsible for compliance with all conditions of approval.
- c) The permittee shall notify the city manager or their designee if they wish to modify an existing permit by submitting a new application under AMC 5.06.030 along with the required fee(s).
- d) The MFU permit shall be displayed in plain view of the public during operating hours.

5.06.150 MFU Permit Renewal.

MFU permits may be renewed an unlimited number of times.

5.06.160 Prohibitions.

- (1) No temporary structures or storage containers shall be placed or erected on the property without prior approval and a valid warehouse license from the state and/or county. Any allowed temporary structure shall be maintained in good working condition free of holes, cracks, and/or defects.
- (2) Restrooms shall not be provided via chemical/portable toilet or privy.
- (3) MFUs shall not be parked in required landscape areas.
- (4) No drive-through or drive-up service.
- (5) Direct or indirect operation of the MFU (i.e., customer line, table placement, sign placement, etc.) shall not be within, or block, the public right-of-way.
- (6) MFUs, including all items associated with their operation, shall not obstruct any required pedestrian pathways, driveways, or drive aisles and shall be located so as not to create a traffic or safety hazard.
- (7) No dumping of waste is permitted into the City's storm drain system, public streets, or directly/indirectly onto the surface as outlined in AMC 12.10 Prohibited Discharges.

5.06.170 Right of Entry - Compliance Inspections.

The city manager or their designee may enter upon a property which has either an MFU property authorization or has an MFU that has established business, for the purpose of inspection of both the private property and MFU for continued compliance with this Chapter.

5.06.180 Denial, Revocation, or Suspension of Permit.

- (1) The city manager or their designee may deny, revoke, or suspend an MFU permit upon finding that any provision herein or condition of approval will be or has been violated.
- (2) Upon denial, revocation, or suspension, the city manager or their designee shall give notice of such action to the applicant or permittee in writing stating the action that has been taken and the reason. The action shall be effective immediately.


5.06.190 Penalties.

Any violation of this chapter by any MFU owner or property owner shall be deemed a misdemeanor as provided under AMC 1.04.010.

Passed by the Council: May 26, 2021

Approved by the Mayor: May 26, 2021

Effective Date: June 25, 2021



Mayor

ATTEST:



City Clerk

