

Benzonia Village

Ordinance. No. 2019-03

VILLAGE AGRICULTURE AND ANIMAL ORDINANCE

Purpose: An ordinance to amend in part the Ordinance. Entitled "Village of Benzonia Zoning Ordinance, Adopted October 2, 1997 Amended", to add definitions related to agriculture and animals in the Village, to regulate the keeping of animals in the Village limits, regulate other agricultural practices as described herein and specify zoning districts where agriculture and animals are allowed.

Benzonia Village HEREBY ORDAINS

SECTION 1. Additional Definitions

Additions to Article II: Section 2.1, Additional definitions will include the following:

AGRICULTURE: a land which includes all the following: (1) FARM OPERATION, (2) producing a FARM PRODUCT and (3) a COMMERCIAL activity. The land use also includes accessory uses for housing and dwelling for the farmer and farm employees.

AGRICULTURE-LIKE: A land use that is one of the following:

A. A land use which may be the principle use or accessory use on a parcel which includes some, but not all, of the following: (1) FARM OPERATION, (2) producing a FARM PRODUCT and (3) a COMMERCIAL activity. OR

B. Any AGRICULTURE or AGRICULTURE-LIKE land use where the Right to Farm Act (MCL 286.471 et seq., as amended) or Generally Accepted Agricultural and Management Practices (GAAMPs) delegates regulatory control back to local government, such as but not limited to, agriculture considered to be in a Category 4 Site, as used in the Site Selection and Odor Control for New and Expanding Livestock Facilities GAAMPs, which is published by the Michigan Department of Agriculture & Rural Development (MDARD) and may be amended by MDARD from time to time.

ANIMAL: a FARM ANIMAL, or a DOMESTIC ANIMAL, but not animals used for research in a scientific laboratory, or specimens in a zoo, or wild animals in a rehabilitation facility.

COMMERCIAL: An activity conducted with the intent of realizing a financial gain from the sale of goods or services to others.

COMMUNITY GARDEN: a collective activity by a group of people, utilizing either individual or shared plots to grow food crops, plant fiber, ornamental, or other plants for personal or institutional use, consumption or donation. Community gardens may include common areas maintained and used by the group members.

FARM ANIMAL: domestic animals, exotic animals; any other animal so long as the animal is kept for the purpose of farm product, for farm operation, or service to humans, Farm animals does not include animals used for research in a scientific laboratory, or specimens in a zoo, or wild animals in a rehabilitation facility.

FARM MARKET: a part of a farm operation which is in place or area where transactions between a

farm market operator and customers take place seasonally or year-round. This includes roadside stands, farm stands, and area without a physical structure, a temporary structure such as a tent, etc., where at least 50 percent of the products or name-sake products marketed and offered for sale (measured as an average over the farm market's marketing season) must be produced on and by the affiliated agricultural establishment. Primary measurement of the 50 percent will be the percentage of retail space used to display products OR percent of gross sale dollars/season.

FARM OPERATION: same as defined by the Michigan Right-to-Farm Act, M.C.L. 286.471(b)

FARM PRODUCTS: same as defined by the Michigan Right-to-Farm Act, M.C.L. 286.471(c)

GAAMPs: Generally Accepted Agricultural and Management Practices as defined by the Michigan Right-to-Farm Act, M.C.L. 286.471(d)

GARDEN: accessory use which is the growing of plants for landscaping purposes which may consist of any plant, food, fibers, garden maintenance facilities, greenhouse, hoop house, and other structures subject to applicable setback, height and parcel coverage and other regulations, and including other landscape features such as but not limited to paths, walls, or rocks. A GARDEN is not COMMERCIAL. A GARDEN is not AGRICULTURE, AGRICULTURE-LIKE, COMMUNITY GARDEN, or MARKET GARDEN.

MARKET GARDEN: activity where food crops, plant fiber, ornamental, or other plants are grown by an individual or a group to be sold for profit.

PET: a domestic animal primarily for a person's company, companionship, performance, attractive appearances, loyalty, for human therapy, playful personalities, or is a service animal pursuant to MCL 287.291. Pet does not include working animals, farm animals, or animals used for research in a scientific laboratory, or specimens in a zoo, or wild animals in a rehabilitation facility.

WOODY PLANT MATERIAL: vegetation characterized by having a woody stem or trunk as opposed to a fibrous or grass stem.

SECTION 2: Addition of Article III, Section 3.22

Ordinance shall be amended to to add Article III, Section 3.22 in general provisions as follows:

COMMERCIAL AGRICULTURE or AGRICULTURE-LIKE uses will only be allowed under special circumstances. NON-COMMERCIAL agricultural uses may be initiated with proper permits from the Village Zoning Administrator.

A. No COMMERCIAL Agricultural use shall be allowed in the Village Limits with the exception of:

1. Small farm markets that are permitted as a special use per Article IX, Section 9.19 of the Village Ordinance, with approval and at the discretion of the Zoning Administrator and Village Council.
2. It is a nonconforming use already in existence, provided it does not change use, or expand operation or structure in either size or scope.

B. Requirements for all NON-COMMERCIAL AGRICULTURE-LIKE land uses:

1. All setbacks, and other applicable standards in the respective zoning districts and overlay districts shall apply as well as all other applicable sections of this Ordinance shall apply.
2. If applicable for a special use, the general special standards in Article IX of this Ordinance, the supplemental special use standards in Article XI and the applicable Environmental Provisions

in article XVI of this Ordinance.

3. Shall only be allowed in the zoning districts where these land uses are permitted by this Ordinance.
4. The property shall be well maintained. It shall be free of high grasses and purposely cultivated native species, which shall be allowed, weeds or debris. Dead garden plants shall be cut back at or near the ground after harvest or removed regularly. In any case removed no later than 30 days after the first killing frost as established by the National Weather Service or National Oceanic and Atmospheric Administration.
5. Plants from cultivated areas shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.
6. AGRICULTURE-LIKE uses shall not be detrimental to the physical environment or the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, or odors.
7. Tools, supplies, and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off the ground, in an enclosed, locked structure that is designed as a secondary containment of groundwater protection.
8. Motorized equipment within a residential zoning district or residential planned development district shall be restricted to hours beginning at 8am and ending at 8pm. Equipment such as fans, necessary for the operation of greenhouses is exempted from this provision.
 - a) Greenhouses or Hoop houses that require fans for operation shall not be located on parcels less than 2 acres in size. They must be located at least 100 ft from any residential dwelling, or provide documentation that the fan(s) will be an acceptable decibel level to adjacent residential properties.
9. Water protection:
 - a) Surface water and drain isolation: Nutrient sources shall be 100 ft. minimum from any surface water, county drain, or wetland boundary. Nutrient sources include but are not limited to; pasture systems, manure land application, any manure facility (storage or otherwise), runoff retention basins.
 - b) Runoff: No runoff from nutrient sources shall be allowed to leave the parcel. A drainage plan must be provided per an engineer per the Environmental Provisions in this Ordinance, prior to the approval of a zoning permit for any AGRICULTURE-LIKE use.
10. Bees: No person shall keep honeybees unless they comply with the following conditions:
 - a) The maximum number of hives permitted per property shall comply with the practices presented in GAAMPs for the Care of Farm Animals, "Beekeeping and Apiary Management".
 - b) Hive placement shall comply with the practices presented in GAAMPs for the Care of Farm Animals, "Beekeeping and Apiary Management".
 - c) Each hive shall have a maximum size of 20 cubic feet.
 - d) A constant supply of water shall be provided for all hives.

C. Requirements for NON-COMMERCIAL **FARM ANIMAL** AGRICULTURE-LIKE land uses.

1. The keeping of farm animals on any parcels in any zoning district that are less than 1 acre is prohibited in the Village Limits.
2. Keeping of certain animals on parcels 1 acres or greater is restricted.
 - a) The keeping of any horses, goats, hogs or swine, or cows within the limits of the Village is declared to be a nuisance and is prohibited.
 - b) The keeping of all poisonous reptiles is prohibited. The keeping or sale of all wild or exotic reptiles or animals is prohibited, unless applicable state and/or federal licenses are obtained.
 - c) The keeping of any fowl within one hundred (100) feet of any dwelling house or public street is likewise declared to be a nuisance and is prohibited. All fowl shall be confined to pens, coops or yards or other enclosures which shall not be closer to any dwelling house,

street or public place than the distances specified in this section and no fowl shall be permitted to run at large.

3. Fowl Health:
 - a) All fowl that are permissible by this ordinance must be cared for per the management practices presented in GAAMPs for the Care of Farm Animals, as well as under any current State and Federal Laws in effect related to Farm Animals.
4. Number of FARM ANIMALS allowed per parcel shall be as follows and must meet the provisions as listed in Section 3.22, C.2(c) above:
 - a) 6 fowl per acre, maximum 24. Fowl shall include; ducks, geese, doves, pigeons, chickens, or any other fowl-like bird.
 1. No Roosters shall be allowed in the Village Limits
 2. Fowl are not allowed in a residence, porch, or attached garage.
 3. Coops must be provided for all fowl as a separate approved structure per the accessory building requirements of this Ordinance and at a setback of 25 ft minimum from all side and rear lot lines. They must be maintained and managed per the management practices presented in GAAMPs for the Care of Farm Animals.
 4. Sale of poultry products is not permitted in the residential district.
 5. AGRICULTURE-LIKE fowl operation shall not be located within 4 miles of a commercial agricultural poultry farm or operation due to issues with spreading disease.
5. All manure and waste related to FARM ANIMALS and AGRICULTURE-LIKE operations must at minimum be maintained and managed per the management practices presented in GAAMPs for the Care of Farm Animals "Manure Management and Utilization". Other practices pertaining to manure and waste management shall be as follows:
 - a) waste materials (feed, manure, and litter) shall be cleaned up every day or every few days as needed and disposed of in an environmentally responsible manner.
 - b) Materials shall be composted using a fully enclosed bin or a three sided structure with the opening facing towards the center of the parcel, or bagged and disposed of in trash. Piling waste materials on the property is PROHIBITED.
 - c) All waste (including but not limited to pulled weeds, discarded materials from crops, cracked eggs, spoiled feed, spoiled food, other solid waste, manure) shall be scraped and removed from outside areas.
 - d) Odor shall be controlled by, but not limited to, applying lime or wood shavings.
 - e) Indoor areas shall be cleaned daily or every 3 days. Manure and bedding shall be removed.
 - f) IF manure is temporarily kept on the premises, it shall be placed in a covered bin or on a concrete pad and covered. NO RUNOFF shall be allowed from the manure pad onto the ground. Removal shall be done by use of a solid waste disposal service or in other ways, including but not limited to shipment to a rural-located farm or composting facility.

SECTION 3. Compliance

A. Zoning Compliance Review and application and approval of any applicable permits shall be required before the establishment of any NON-COMMERCIAL AGRICULTURE-LIKE or NON-COMMERCIAL **FARM ANIMAL** AGRICULTURE-LIKE land uses. (For example, any structures related to keeping of animals, growing products or the like may require a land use permit.)

1. Applications for applicable permits and associated violations is per Article IX: "Permits, Site Plans, Plats & Violations", and/or of Section 4 "Enforcement and Sanctions" of this Ordinance.
2. All existing NON-COMMERCIAL AGRICULTURE-LIKE or NON-COMMERCIAL **FARM ANIMAL** AGRICULTURE-LIKE land uses must comply to this Ordinance amendment **within 15 days of Effective Date** or make an written appeal to the Village Council with reasons for non-compliance for consideration.

SECTION 4. Enforcement and Sanctions

A. A violation of this ordinance is a municipal civil infraction and shall be enforced in a manner provided by chapter 87 of the revised Judicature Act [MCL 600.8701 et seq.]. Violations of the ordinance shall be enforced by the Zoning Administrator who is authorized to issue municipal civil infractions notices and citations pursuant to the authority of and as provided in applicable state law.

B. Any person or firm found responsible for such violation shall be subject to a maximum civil fine of \$500.00 plus costs. Commencing thirty (30) days after receiving notice of violation, unless said violation is abated, each day the violation continues shall constitute a separate violation of this ordinance.

SECTION 5. Effective Date

This Ordinance shall become effective upon the publication in accordance with law.

At a regular meeting of the Village Council for Benzonia Village held on the 4th day of November, 2019, Trustee Misner, moved for the adoption of the foregoing ordinance and Trustee Heyn supported the motion.

Voting For: French, Cook, Misner, Heyn, Flynn

Voting Against: None

The Village President declared the ordinance adopted.

Timothy Flynn,

Village President.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2019_03, which was enacted by the Village Council for the Benzonia Village at a regular meeting held on November 4, 2019.

Rhonda Nye,

Village Clerk