

Benzonia Village

Ordinance No. 2021 -03

VENDOR & FOOD TRUCK ORDINANCE

Purpose: An ordinance to amend in part the Ordinance. Entitled "Village of Benzonia Zoning Ordinance, Adopted October 2, 1997 Amended"

Benzonia Village HEREBY ORDAINS

SECTION 1. AUTHORITY.

This ordinance is enacted pursuant to the authority of MCL 41.181 General Law Village Act 3 of 1995, Chapter 6, as amended, which authorizes a Village to enact ordinances to regulate the public health, safety, and general welfare of persons and property in the Village.

SECTION 2. PURPOSE.

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of the Village of Benzonia, while providing a framework under which such businesses operate, this chapter is established.

SECTION 3. DEFINITIONS

Section 3.1. This section contains many commonly used terms found within this Article of the Ordinance. In addition to the definitions listed herein, all definitions from the Village Zoning Ordinance shall also apply, **Additional definitions will include the following:**

- A. **FOOD TRUCK:** A self-contained, motorized vehicle, identified generically as a "mobile food vending unit," which is used for the preparation and distribution or sale of food.
- B. **MOBILE FOOD VENDING** — Vending, serving, or offering for sale food and/ or beverages from a mobile food vending unit which meets the definition of a "food service establishment" under Public Act 92 of 2000, and which may include the ancillary sales of branded items consistent with the food or vendor, such as a tee shirt that bears the name of the company, restaurant or organization engaged in mobile food vending.
- C. **MOBILE FOOD VENDING UNIT** — Any motorized or nonmotorized vehicle, trailer, food truck, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.
- D. **VENDOR** — Any individual, company, restaurant or organization engaged in the business of mobile food vending; if more than one individual is operating a single cart, food truck, or other means of conveyance, then "vendor" shall mean all individuals operating such means of conveying food.
- E. **OPERATE** — All activities associated with the conduct of business, including setup and takedown and/or hours of operation and locations where the mobile food vending units are allowed to be open for business.

SECTION 4. PERMIT REQUIRED.

- A. No vendor shall engage in mobile food vending without a permit issued by the Village of Benzonia Clerk/Treasurer's office authorizing such vending. The Village of Benzonia Council shall prescribe the form of such permits and the application for such permits.
- B. All permits shall be prominently displayed on the mobile food vending unit. A permit for vending shall not be issued by the Clerk/Treasurer's office unless the vending unit meets the definitions of "mobile food vending" and "mobile food vending unit" and operates in the locations or areas defined by this chapter.

SECTION 5. DURATION OF PERMIT; NON TRANSFERABILITY.

- A. Permits issued by the Village of Benzonia Clerk/Treasurer's office shall be valid only for the calendar year in which they are issued and for the mobile food vending unit identified on the permit. Any permit issued under this chapter is nontransferable from vendor to vendor or from food truck/mobile food vending unit to food truck/mobile food vending unit.

SECTION 6. APPLICATION FOR A PERMIT

- A. Any vendor desiring to operate a food truck or engage in mobile food vending in the Village of Benzonia shall submit a completed application to the Village of Benzonia Clerk/Treasurer's office and receive a permit issued by that office.
- B. The applicant shall truthfully state, in full, all information requested on the application for permit issued by the Village of Benzonia Clerk/Treasurer's office. Additionally, the applicant shall provide all documentation, such as insurance and health department permits, as required by this chapter or the Village of Benzonia. The application for a permit shall be accompanied by a fee as determined by the Village Council.

SECTION 7. SINGLE EVENT PERMITS

- A. A single-event application is also available from the Village of Benzonia Clerk/ Treasurer's office for vendors wishing to operate a food truck or mobile food vending unit during a Village-sponsored or Village-endorsed special event or to operate at a public or private event held on public property or in a public park. The application for a permit shall be accompanied by a fee as defined in this chapter.

SECTION 8. FEES

- A. An application for a permit shall be accompanied by a fee in the amount established by resolution by the Village Council. Permits shall only be for the calendar year in which the permit is issued. There shall be no proration of fees. Fees are nonrefundable once a permit has been issued by the Clerk/Treasurer's Office.

SECTION 9. REQUIREMENTS

Any vendor engaging in mobile food vending shall comply with the following requirements.

- A. Food trucks/mobile food vending units shall only operate in districts zoned C-1, C-2, or other districts approved by the Village Council.
- B. Vendors shall not operate on Village-owned property or on public streets without prior authorization and approval of the Village of Benzonia Clerk/Treasurer's office or Zoning Administrator. (Refer to Figure 1.)
- C. No food service shall be allowed on the driving lane side of the mobile food vending unit. If operating on a private street, the customer service area for mobile food vending units shall be on the curb lawn or sidewalk when parked.

- D. No food shall be sold, prepared or displayed outside of the food truck or mobile food vending unit while on the location noted on the permit.
- E. Vendors shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other wastes attributable to the vendor and/or customers on a daily basis.
- F. Vendors shall not use any flashing, blinking or strobe lights or similar effects to draw attention to the food truck or mobile food vending unit; all exterior lights over 60 watts shall contain opaque hood shields to direct the illumination downward.
- G. Vendors shall not use loud music, amplification devices or crying out or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the Village of Benzonia.
- H. Signage shall be limited to what is allowed on the vehicle, food truck or mobile food vending unit itself. Vendors may have one (1) portable sign that is six (6) Square feet or less, with no dimension more than three (3) feet and height not to exceed 4ft with legs, must be located within 3ft of the unit, and under no circumstances shall it be placed upon the sidewalk or impede pedestrian and/or vehicle safety.
- I. Vendors are prohibited from locating, placing, or putting personal property outside of the food truck, including but not limited to dining furniture, fixtures, and equipment, unless located on private property.
- J. No vendor shall utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any street or sidewalk except in a safe manner. If unit is not self-contained and requires electric service, any necessary permitting and coordination of utilities is required by the vendor.
- K. Hours of Operation: The hours of mobile food vending shall be between the hours of 7:00AM and 11:00PM, other restrictions may be established by resolution of the Village Council.
 - 1. No mobile food vending unit may be left unattended for more than 2 hours, and any mobile food vending unit NOT in operation shall be removed between the hours of 11:00PM to 7:00AM, unless located on private property.
- L. Vendors shall comply with all applicable Village laws, regulations, and ordinances, including those regulating noise, signage and parking.
- M. Vendors shall not represent the granting of a permit under this chapter as an endorsement of the Village.

SECTION 10. OTHER PERMITS

A permit obtained under this chapter shall not relieve any vendor of the responsibility for obtaining any other permit or authorization required by any other resolution, ordinance, statute, or administrative rule.

SECTION 11. COMPLAINTS; APPEALS; REVOCATION OF PERMIT.

- A. If a written complaint is filed with the Village of Benzonia office alleging a food vendor has violated the provisions of this chapter, the Village shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made by the Village, with the assistance of the Zoning Administrator or other Village staff as required, as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the Village office, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.
- B. The Village shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this chapter or violates any other federal, state or local law, ordinance or regulation; makes a false statement on his/her application; or conducts activity in a manner that is adverse to the protection of the public health, safety, and welfare.
- C. If a permit is denied or revoked by the Village office or if a written complaint is certified pursuant to this chapter, the applicant or holder of the permit may appeal to Village Council. Such appeal shall be in writing. The Village Council (or designee) shall make a written determination, after reviewing evidence related to the appeal, as to whether the denial, revocation, or complaint is valid. If the Village Council (or designee) determines that the denial, revocation, or complaint is valid as supported by a preponderance

of the evidence, the action of the Village office shall be sustained. The applicant may appeal the decision of the Village Council (or designee) to a court of competent jurisdiction.

- D. Immediately upon such revocation, the Village office shall provide written notice to the permit holder by certified mail to the address indicated on the application. The permit to operate shall become immediately null and void upon revocation.

SECTION 12. ENFORCEMENT

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

SECTION 13. EFFECTIVE DATE.

This Ordinance shall become effective upon publication in accordance with law. At a regular meeting of the Village Council for Benzonia Village held on the 4th day of October, 2021, Trustee Cook, moved for adoption of the foregoing ordinance and Trustee Misner supported the motion.

Voting for: Misner, Hafer, Flynn, French, Heyn, Cook
Voting against:
Abstains: Bair

The Village President declared the ordinance adopted.

(see copy on file in office for signatures)

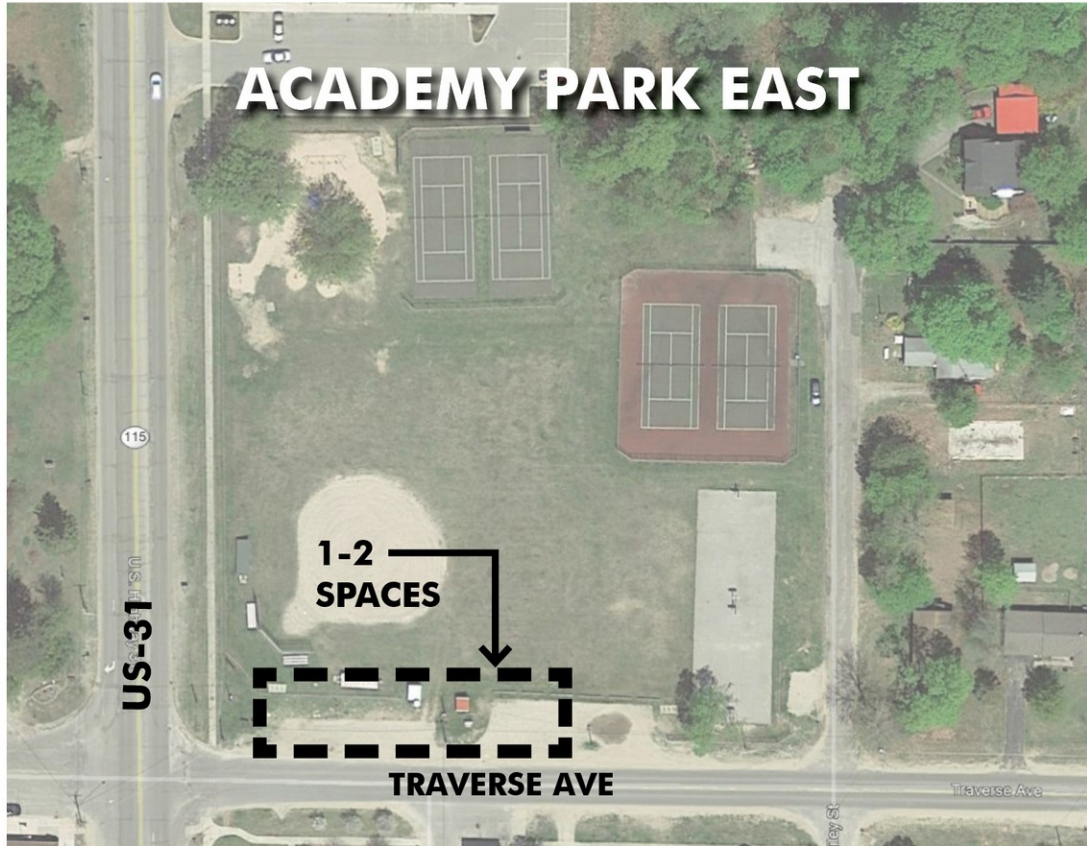
Timothy Flynn
Village President

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2021- 03, which was enacted by the Village Council for the Benzonia Village at a regular meeting held on October 4, 2021.

Maridee Cutler
Village Clerk

PARKING LOCATIONS FOR MOBILE FOOD VENDING UNITS ON VILLAGE OWNED PROPERTY



Parking Location for Mobile Food Vendors with an approved annual permit only

Figure 1: LOCATION FOR FOOD TRUCK PARKING WITH ANNUAL PERMIT