

Benzonia Village

Ordinance. No. 2021-01

ACCESSORY BUILDING AMENDMENT

Purpose: An ordinance to amend in part the Ordinance. Entitled "Village of Benzonia Zoning Ordinance, Adopted October 2, 1997 Amended", to amend Sections 3.4, 3.5, 3.6, 3.7, and 3.10 as located in Section 3. General Provisions.

Benzonia Village HEREBY ORDAINS

SECTION 1. Sections Related to Accessory Buildings

The Village of Benzonia Zoning Ordinance, Adopted October 2, 1997 Amended (hereinafter the "Ordinance"), shall be amended to delete the entire Section 3.4 Accessory Use Without a Principal Use and Sec. 3.5 Accessory Building As Dwelling and Sec. 3.6 Accessory Structure Setbacks and Sec. 3.7 Maximum Size Accessory Structures and Section 3.10 Use of Open Space, and replace in its entirety with the following:

"Section 3.4 Accessory Buildings

- A. Accessory Building are permitted in any zoning district in accordance with this section.
 - 1. An accessory building is a secondary or subordinate building detached from the principal building but located on the same parcel of land as the principal building.
 - 2. Accessory buildings that are structurally attached to the principal building shall be considered to be a part of said principal building and not an accessory building.
 - 3. An accessory building may be designed, constructed and used for only a permitted accessory use.
- B. Accessory Structure without a Principal Use: No construction of an accessory use structure shall be permitted without the foundation for a principal use structure first being in place. However, an accessory structure may be constructed on a separate lot (s) provided the separate lot (s) is immediately adjacent to the lot on which the principal use structure is located and both lots are, and will remain under common ownership.
- C. Accessory Building As Dwelling: No building or structure on the same lot with a principal building shall be used for dwelling purposes, except as specifically permitted in this Ordinance. (See Sec. 3.3).
- D. Accessory Structure Setbacks, Size, and Number:
 - 1. Accessory structures shall meet the same setback requirements as a principal structure.
 - 2. Maximum Size Accessory Structures:
 - a. Area: Area: The total ground level gross square footage of all accessory structures shall not exceed fifty percent (50%) of the principle buildings first floor square footage or;
 - i. Parcels 1 acre or less: seven hundred and twenty (720) square feet, whichever is more.
 - ii. Parcels more than 1 acre: nine hundred sixty (960) square feet, whichever is more.
 - b. Accessory structure shall not exceed more than 30% of the required rear or side yard.

- c. Height: The maximum height of accessory structures shall not exceed ten (10) feet in height for sidewalls, nor shall it exceed the height of sixteen (16) feet total, nor shall it exceed the height of the principle structure.
- d. Number: No parcel shall be allowed more than 3 accessory structures. Structures exempted in Section 3.4.G shall be counted as an accessory structure to meet this requirement.

E. Location of Accessory Structures

- 1. No accessory structure shall be allowed in the front yard.
- 2. Accessory structures must be located a minimum of 10 feet from any principle structure.
- 3. In no instance shall any accessory building be located within a dedicated right-of-way or easement.

F. Materials for Accessory Structures: The architectural character of all accessory buildings shall be compatible and similar to the principal building.

- 1. An accessory building shall be constructed with durable, hard-sided materials that are weather- and rust-resistant. They shall be regularly maintained so as to reasonably retain their original appearance and be free from structural defects. Accessory buildings shall not consist, in whole or in part, of flexible construction materials, such as a plastic tarp or other type of flexible fabric fastened over a frame of poles or otherwise (unless it meets Section 3.4.G below).
- 2. No mobile home, trailer, vehicle, tank, shipping container, junk object, salvage materials or similar items shall be used, in whole or in part, as an accessory building or storage structure, except for temporary tool sheds or trailers and the like located on a construction site and used only for and during the construction of a building or other structure on the site.

G. Exceptions:

- 1. The Zoning Administrator may waive Land Use Permit requirements for yard sheds on skid no greater than one hundred (100) square feet in area, provided they meet the other requirements of this ordinance and are limited to 2 per parcel.
- 2. Permanent greenhouses shall be considered an accessory structure and meet the requirements of this ordinance except for materials. Greenhouses with flexible materials are allowed and are limited to 1 per parcel. They must be maintained in good condition at all times. Broken, ripped or otherwise damaged coverings must be repaired within 14 days or the structure must be removed.
- 3. Buildings with flexible materials such as tents, wall tents, garages in a box and similar enclosures shall be limited to 1 per parcel and shall only be allowed in the rear yard and located behind the principle structure so as to not be visible from the street including any streets that face the side yard, if applicable (corner lots for example).

H. In those cases where the Administrator questions whether an accessory building is usual and customary to a permitted use, a determination shall be made by the Planning Commission utilizing the following criteria, and the procedure for calling a hearing for a special use shall be followed.

- 1. Whether the proposed size and location of the proposed building is consistent with existing permitted uses.
- 2. Whether the proposed building will adversely affect the light and air circulation of any adjoining

- buildings or properties.
 - 3. Whether the proposed building will adversely affect the view of any adjoining property.
 - 4. The environmental effect of the building(s) or their proposed use.
 - 5. Whether the proposed building can be located such that it meets the yard and other requirements and in relation to existing or planned roads, land divisions, and utilities.
- I. Outdoor swimming pools may be installed in any district as an accessory use. All pools require a land use permit and must meet the following conditions:
- 1. Pools may be installed in the side or rear yards of a lot in a residential district.
 - 2. Fences and gates for all pools (above or underground) shall meet local, state and all other applicable regulations. Refer to Benzonia Village Ordinance, Fences, Walls and Screen Amendment, Section 3.15.G.
 - 3. Pools shall comply with the setbacks as required for buildings or structures.
 - 4. Swimming pools shall be defined as a basin or structure designed to hold water for aquatic recreation; not including temporary, portable pools located upon the ground and holding less than 300 gallons of water, or decorative pools less than two feet deep.

Section 3.5 Accessory Uses

- A. In General: Whenever an activity (which may or may not be separately listed as a principal use in this ordinance) is conducted in conjunction with another principal use and the former use;
- (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require an independent approval process.
- B. Interpretation of Accessory Uses: For purposes of interpreting accessory uses;
- 1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
 - 2. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
 - 3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater or more burdensome than such impacts from the principal use on the property.

Section 3.6 Reserved.

Section 3.7 Reserved.”

Section 3.10 Use of Open Space

- A. It shall be prohibited at all times and considered a nuisance for the open yard surrounding a dwelling, or structure used for dwelling purposes, to be used for the location, parking, disposition, storage, deposit, or dismantling in whole or in part of junked vehicles, machinery, second hand building materials or other

discarded, disused or rubbish-like materials or structures.

- B. Storage Of Recreational Vehicles. The storage or temporary parking of house travel trailers, motor homes, water craft and other recreation vehicles is permitted in any district PROVIDED that such storage or parking of such vehicles meets the following requirements.
 - 1. Except as provided in subsection 3.10.B.2, the non-commercial storage of recreational vehicles shall be permitted in R-1, R-2 and C-1 districts (not to exceed three (3) per lot), provided that such vehicle is parked in the side or rear yard, that it is not used as living or guest quarters and that it is located so as not to create a nuisance to a neighborhood use. There shall be no limitation to the number that may be stored in an enclosed building. The storage of such vehicles in any planned unit developments is subject to the approval of the Zoning Administrator.
 - 2. One house travel trailer or motor home may be temporarily parked on any R-I residential lot for the purpose of guest quarters for a period not to exceed 10 continuous days or an aggregate period of 15 days in 1 month, and that such vehicle is parked in the side yard or rear yard and that it is located so as to not create a nuisance to a neighboring use, and further that all waste water and sewage is contained and carried off the lot to an approved sanitary disposal station.
 - 3. Small recreation vehicles such as all terrain vehicles, jet skis and snowmobiles may be parked or stored on any lot provided that such vehicles are not parked or stored in the street right-of-way or in such location as to create nuisance to neighboring uses. Such parking or storage shall be strictly for the personal, noncommercial use of vehicles owned by the property owner, tenant or guest.
- C. No outdoor storage or parking of vehicles or trucks, over one (1) ton rated capacity, or similar heavy equipment or construction equipment, shall be permitted in a yard or on a lot located in R-1 or R-2 Districts, other than for the temporary parking of trucks or equipment engaged in construction on the site or being used for temporary pickup or delivery purposes.
- D. In those cases where the Administrator questions whether the use of open space is usual and customary to a permitted use, a determination shall be made by the Planning Commission utilizing the following criteria, and the procedure for calling a hearing for a special use shall be followed.
 - 1. Whether the proposed use of open space is consistent with existing permitted uses.
 - 2. Whether the proposed use of open space will adversely affect the light and air circulation of any adjoining buildings or properties.
 - 3. Whether the proposed use of open space will adversely affect the view of any adjoining property.
 - 4. The environmental effect of the proposed use of open space.
 - 5. Whether the proposed use of open space can be located such that it meets the yard and other requirements and in in relation to existing or planned roads, land divisions, and utilities.

SECTION 2. SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 3. REPEAL

All ordinances or parts of ordinances in conflict with this ordinance herewith are hereby repealed.

SECTION . EFFECTIVE DATE.

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

FINAL DRAFT 10/4/21

At a regular meeting of the Village Council for Benzonia Village held on the 4th day of October, 2021, Trustee French, moved for adoption of the foregoing ordinance and Trustee Cook supported the motion.

Voting for: Flynn, French, Misner, Heyn, Cook, Hafer

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- 01, which was enacted by the Village Council for the Benzonia Village at a regular meeting held on October 4, 2021.

Maridee Cutler

Village Clerk