

VILLAGE OF MILLINGTON

ORDINANCE NO. 112

An ordinance to add Article II to Chapter 20 of the Village of Millington Ordinances to regulate the food trucks within the Village.

THE VILLAGE OF MILLINGTON HEREBY ORDAINS:

1) Amendment to Section 20-40 of Article II of the Village of Millington Ordinance.

Article II – MOBILE FOOD VENDING

Sec. 20-40 – Intent.

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

Sec. 20-41. – Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile food vending shall mean vending, serving, or offering for sale, food, beverages, and/or related merchandise from a mobile food vending unit which meets the definition of a food service establishment under Public Act 92 of 2000, as amended, which may include the ancillary sales of branded items consistent with the food, such as t-shirts that bears the name of the organization engaged in mobile food vending, or other, similar merchandise.

Mobile food vending unit shall mean any motorized or non-motorized car, cart, stand, trailer, vehicle, or other device designed to be portable and not permanently attached to the ground from which food, beverages, and/or related merchandise is vended, served, or offered for sale.

Operate shall mean all activities associated with the conduct of business, including set up and take down as well as actual hours where the mobile vending unit is open for business.

Special event shall mean any event operated on city property or the public rights-of-way, pursuant to an authorizing resolution of the village council.

Vendor shall mean any person, firm, partnership, association, corporation, company, or organization of any kind engaged in the business of mobile food vending; if more than one individual is operating a single mobile food vending unit, then it shall mean all individuals operating such single unit.

Sec. 20-42. – Permit required; duration; non-transferability

- a) It shall be unlawful for any person, firm, partnership, association, corporation, company, or organization of any kind to engage in mobile food vending within the limits of the Village without a permit issued, pursuant to the chapter. The village clerk shall prescribe the form of such permits and the application therefor. A permit, once obtained, shall be prominently displayed on the mobile food vending unit that it authorizes.
- b) Permits issued under this chapter shall be valid for the time period for which they are issued, but no longer than a calendar year. Such permits shall be non-transferable.

Sec. 20-43. – Application; fee

- a) Every vendor desiring to engage in mobile food vending shall make a written application to the village clerk for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the village clerk and be accompanied by a fee established by resolution of the village council. Additionally, the applicant shall provide documentation, such as insurance, as required by the village.
- b) Fees for an application made under this chapter and for a permit issued under this chapter shall be charged at the time of application. The fee shall be as established by resolution of the village council. Different fees may be established depending upon the character of the permit sought, e.g. for public versus private property and based upon proximity to downtown. No fee shall be charged to an honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such status.
- c) A current food service license issued by the State of Michigan is required to be maintained as a condition of this permit.
- d) No mobile food vending unit may serve alcoholic beverages or other intoxicants.

Sec. 20-44. – Standards

Any vendor engaging in mobile food vending shall comply with the following standards:

1. Appropriate waste receptacles for public use shall be provided at the site of the unit and all litter, debris and other waste attributable to or generated by the operation shall be collected and properly disposed of off-site each day. Gray water may not be dumped on the public street. Spills of food or byproducts shall be cleaned up not less than once every four hours.
2. If operating on village-owned or controlled property, a vendor may only locate on such property if authorized by the village council. If parked on public streets, assuming such a location is authorized by village council resolution, vendors shall conform to all applicable parking regulations.
3. No vendor may operate on public property within one block of a special event without written authorization from the event sponsor. The village council may authorize special events that include mobile food vending as a part of that event. No food trucks will be allowed in the Village during the Millington Summer Festival, generally the second weekend in August, due to road closures, parades, and being a nonprofit event.

4. No vendor may use any flashing or blinking lights, string lights, or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
5. No vendor may 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.
6. Vendors shall comply with the village noise ordinance, zoning ordinance, and all other village ordinances and all applicable federal, state, and county regulations.
7. Notwithstanding anything to the contrary in the sign ordinance, a mobile food vendor may have such signs as are permanently affixed to the unit and one portable sign that is no greater than six square feet in area, with no dimension greater than three feet and no height (with legs) greater than four feet, located within five feet of the unit; and under no circumstances placed upon the sidewalk or so as to impede pedestrian and/or vehicular traffic. No signs used in connection with a unit may be animated, flash, blink, or move, and any illumination shall comply with the lighting standards above.
8. Within residential areas, a mobile food vendor may only operate between the hours of 9:00 a.m. and 9:00 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 7:00 a.m. and 12:00 a.m.; provided, however, that on private property within a commercial area, a mobile food vendor may operate between the hours of 7:00 a.m. and 2:00 a.m. Other restrictions regarding hours of operation may be established by resolution of the village council.
9. When operating on public property, no mobile food vending unit may be left unattended for more than two hours; and any mobile food vending unit not in operation shall not remain on the streets between the hours of 2am – 6am. Any mobile food vending unit left unattended, contrary to the section, is subject to impoundment at the owner’s expense. This subsection does not apply to private property.
10. No vendor shall represent that the granting of a permit under this article is an endorsement by the village.
11. A vendor shall not 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 public street, alley, or sidewalk except in a safe manner.
12. No mobile food vending unit shall use external bollards, seating or other equipment not contained within the unit when parked on public streets, rights-of way of village property. When extended, awnings for mobile food vending units shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
13. Mobile food vending units, if allowed on public streets, shall not hinder the lawful parking or operation of other vehicles. If operating on village-owned or controlled property, they may only locate on such property as approved by the village council. A mobile food vending unit parked on a public street must have the order window facing the sidewalk, not open to the street.
14. A mobile food vending unit shall not operate on private property without first obtaining written consent to operate from the property owner and/or party lawfully in control thereof and shall obtain a permit from the Village.

15. Mobile vending units shall not be parked on public property within 100 feet of an existing, permanently-established restaurant or food service business, during the hours when such establishment is open to the public for business, unless the vendor is affiliated with that business or otherwise has their written permission to do so.
16. A mobile food vending unit shall not block any sidewalks in any residential or commercial area.
17. If parking on public streets within the Village, the Hold Harmless Agreement must be signed and submitted along with the application for the license.
18. Only two (2) mobile vending units will be allowed in the Village on a given day, unless special permission is given by Village Council.

Sec. 20-45. – Enforcement.

- a) The village clerk may revoke the permit of any vendor who ceases to meet any requirements of this chapter or violates any other federal, state, county, or local regulation, or who has made a false statement on their application, or who operates in a manner that is adverse to the protection of the public health, safety and welfare, pursuant to the procedure set forth herein.
- b) If the village clerk believes that a vendor is acting contrary to this chapter or the conditions of that vendor's permit, or if a written complaint is filed with the village clerk alleging a vendor has violated the provisions of this chapter, the village clerk shall notify the Chief of the Millington Police Department, who shall promptly send notice, by first class mail, postage fully prepaid, of such alleged violations, or a copy of such written complaint, to the vendor, at the address provided in the vendor's application, together with a notice that an investigation will be made as to the truth of the allegations. The vendor shall be invited to respond to the allegations or complaint within not more than ten days of the date of the said notice. If the police chief, after reviewing all relevant material, finds, by a preponderance of the evidence, that a violation has occurred, the village clerk will then be notified and the vendor's permit shall be immediately revoked and notice of such revocation shall be promptly sent to the vendor as provided for herein. A vendor may not reapply for a mobile food vending permit for one year following revocation.
- c) The police chief and sworn officers of the police department, or such other officials as designated by the village council, are authorized to issue and serve civil infraction citations with respect to a violation of this chapter pursuant to Michigan law. Citations shall be in such a form as determined by the village attorney and shall be in conformity with all statutory requirements.
- d) A party who violates any of the provisions of this chapter is responsible for a Municipal Civil Infraction. Each day such violation continues shall be considered a separate offense.

Sec. 20-46. – Appeals

When a permit is denied or revoked by the village clerk, the vendor may appeal to and have a hearing before the village council within 30 days of the date of revocation or denial was mailed. The village shall notify the aggrieved party of the date and time that a hearing will be held on the appeal, and shall make a written determination within 20 days of the date of the hearing, after presentation by the aggrieved party and investigation by village staff, as to whether or not the grounds for denial or revocation are true. If the village council determines that such grounds are supported by a preponderance of the evidence, the action of the village clerk shall be sustained, and the applicant may appeal the village council's decision to a court of competent jurisdiction.

2) Effective date.

This ordinance shall take effect thirty days after publication.

Voting for: Bassett, Beam, Bonadurer, Nesbitt, Reinert, Slough

Absent: Selich

Voting against: None

The President declared the ordinance adopted.

Kaylene Long
Village Clerk

Gailan Reinert
Village President

CERTIFICATION

The foregoing is a true copy of Ordinance No. 112 which was enacted by the Village of Millington Council at a regular meeting held on April 11, 2022.

Kaylene Long
Village Clerk

Publication Date: April 16, 2022

Effective Date: May 16, 2022