

## ORDINANCE NO. ## - MOBILE FOOD VENDING

### 1. Mobile Food Vending Regulations

An ordinance to amend Article XIII of the Beaver Island Joint Townships Zoning Ordinance, Reserved, that will expire after December 31, 2020. During this trial period, there may be up to three licenses issued for designated locations on public property and no limit to the number of licenses that may operate on private property.

#### DIVISION 1. - GENERALLY

##### **Sec. 8-300. - Intent.**

The intent of this section is to encourage mobile food vendors that will provide food service options in underserved areas, promote entrepreneurial activity, and increase vibrancy and culture to the township.

##### **Sec. 8-301. - Definitions.**

- a) *Mobile food vending* shall mean 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, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in mobile food vending.
- b) *Mobile food vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.
- c) *Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.
- d) *Vendor* shall mean any individual engaged in the business of mobile food vending; if more than one individual is operating a single stand, cart or other means of conveyance, then vendor shall mean all individuals operating such single stand, cart or other means of conveyance.

**Secs. 8-302—8-314. - Reserved.**

#### DIVISION 2. – LICENSE

**Sec. 8-315. - License required.**

No vendor shall engage in mobile food vending without a license from the township clerk authorizing such vending. The township clerk shall prescribe the form of such licenses and application for such license. All licenses shall be prominently displayed on the mobile food vending unit. No vending through a mobile food vending unit of food and/or other human consumables shall be licensed unless it meets the definition of mobile food vending as defined by this division.

**Sec. 8-316. - Duration; non-transferability.**

Annual licenses may be issued by the township clerk expiring at the end of each calendar year. Licenses associated with a community event may be issued on a daily basis. This mobile food vending ordinance shall expire December 31, 2020. Any license issued under this chapter is non-transferable.

**Sec. 8-317. - Application.**

Every vendor desiring to engage in mobile food vending shall make a written application to the township clerk for a license under this chapter. The applicant shall truthfully state, in full, all information requested by the township clerk and be accompanied by a fee established by resolution of the Township board. Additionally, the applicant shall provide all documentation, such as insurance, as required by the township.

**Sec. 8-318. - Fees.**

An application for a license under this chapter shall be accompanied by a fee in the amount established by resolution of the township board. There shall be no proration of fees. Fees are non-refundable once a license has been issued by the township clerk. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this chapter.

**Sec. 8-319. - Requirements.**

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

- 1) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.
- 2) If operating on township-owned or controlled property, vendor may only locate on such property in locations as established by a resolution adopted by the township Board. Exceptions to this requirement may be approved by the township manager for community events whereby food vending trucks are present. All mobile food vending trucks operating at a community event,

whether on public or private property, will be required to obtain the appropriate license(s) and pay the fee established by resolution of the township Board.

- 3) No vendor may operate on public property within one block of a township-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
- 4) No vendor may use flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- 5) No vendor shall 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 township.
- 6) Comply with the township's nuisance ordinance, sign ordinance and all other township ordinances.
- 7) Comply with all applicable federal, state and county regulations.
- 8) May have one portable sign that is six square feet, with no dimension greater than three feet and no height (with legs) greater than four feet, located within three feet of the unit; and under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle safety.
- 9) The hours of mobile food vending are between 7:00 a.m. and 11:00 p.m. Other restrictions regarding hours of operation may be established by resolution of the township Board.
- 10) No mobile food vending unit may be left unattended for more than two hours; and any mobile food vending unit not in operation shall be removed between the hours of 11:00 p.m. and 7:00 a.m.
- 11) Mobile food vending units 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 across any township street, alley or sidewalk.

**Sec. 8-320. - Impoundment.**

Any equipment associated with food vending that is not in compliance with this chapter and left on public property may be impounded at the owner's expense.

**Sec. 8-321. - Other licenses.**

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

**Sec. 8-322. - Revocation.**

The township clerk shall revoke the license 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 regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the township clerk shall provide written notice to the license holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the license shall become null and void.

**Sec. 8-323. - Complaints; appeals.**

If a written complaint is filed with the township clerk alleging a food vendor has violated the provisions of this chapter, the township clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made 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 township clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a license is denied or revoked by the township clerk, or if a written complaint is certified pursuant to this chapter, the applicant or holder of a license may appeal to and have a hearing before the township manager. The township manager shall make a written determination, after presentation by the applicant and investigation by the township clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the township manager determines that such grounds are supported by a preponderance of the evidence, the action of township clerk or filing of the complaint shall be sustained and the applicant may appeal the township manager's decision to a court of competent jurisdiction.

**Sec. 8-324. - Violation and penalty.**

A violation of this chapter is responsible for a civil infraction and subject to fines as established by Township Board.

**2. Conflicting Standards.**

If any of the standards set forth in this amendment conflict with any other standards of previous or further ordinances or amendments, the stricter standards shall apply.

**3. Repeal; Savings Clause.**

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

**4. Severability.**

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**5. Effect.**

This ordinance shall take effect fifteen (15) days following its enactment and shall be published once within seven (7) days after its enactment as provided by *Charter*.

Adopted, enacted and ordained by the Township of St. James Board of Trustees this # day of ## 2020.

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Kathleen McNamara  
Its Supervisor

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Julie Gillespie  
Its Clerk