

# City of Benton Harbor Code of Ordinances

## Special Transitory Food Units Ordinance (Also Known as Food Trucks)

### **Chapter 30.5, Special Transitory Food Units**

#### **Sec. 30.5-1. Short title.**

This article shall be known as the Benton Harbor Special Transitory Food Unit Ordinance.

#### **Sec. 30.5-2. Purpose**

It is the purpose of this article to regulate the operation of Special Transitory Food Units, to provide licensing requirements for same; and to protect the public health, safety and welfare.

#### **Sec. 30.5-3. Validity and Severability.**

The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

#### **Sec. 30.5-4. Repealer Clause.**

All ordinances or parts of ordinances in conflict therewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

#### **Sec. 30.5-5. Effective Date.**

This Ordinance shall be effective seven (7) days from the date of final publication.

#### **Sec. 30.5-6. Definitions.**

**Code Compliance** means the Code Compliance Division of Public Safety.

**Operate** shall mean the actual hours when the special transitory food unit is open for business, not including the hours to set up and take down.

**Operator** shall mean any person engaged in the business of sales from a special transitory food unit; if more than one individual is operating a motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable, then operator shall mean all individuals operating such motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable.

**Operating a Special Transitory Food Unit** means serving or offering for sale food and/or beverages from a special transitory food unit.

**Special Transitory Food Unit** shall mean any motorized or non-motorized vehicle, trailer, stand, cart, or other device designed to be portable and not permanently attached to the ground from which food is served or offered for sale.

#### **Sec. 30.5-7. Permitted Locations.**

Operating a Special Transitory Food Unit shall be permitted on office, commercial and industrially zoned properties with the exception that operating a Special Transitory Food Unit shall be permitted on church, school and City owned properties (parks) regardless of the zoning classification subject to the regulations herein.

#### **Sec. 30.5-8. Permitted Hours.**

Operating a Special Transitory Food Unit shall be only be permitted from 9:00 AM to 7:00 PM, or sundown, whichever occurs first. These restrictions shall not apply to special event applications approved by the city.

#### **Sec. 30.5-9. License Required.**

No person shall operate a special transitory food unit without a license issued by Code Compliance. The

serving or sales of food and/or other consumables shall not be permitted unless the operation meets the definition of special transitory food unit herein and complies with the requirements of this ordinance.

**Sec. 30.5-10. Exceptions to License Requirement.**

The following operations are exempt from the license requirement and the corresponding fee, provided they comply with all applicable requirements of Sec. 30.5-16:

- (1) Operating a special transitory food unit for a period of two (2) days or less on City owned properties, including City parks, subject to the approval of the City manager.
- (2) Operating a special transitory food unit for a period of two (2) days or less on church and school properties conducted in conjunction with a special event at the church or school. The exemption shall only apply to three (3) special events or less per year.
- (3) Veterans who have been issued a license by the County Clerk pursuant to Public Act 359 of 1921.

**Sec. 30.5-11. Duration; Non-Transferability.**

Licenses may be issued by Code Compliance for a period of thirty (30) or one hundred twenty (120) days from the date of issuance. The license may be renewed by an operator in good standing. Any license issued under this article is non-transferrable between operators, properties, and special transitory food units.

**Sec. 30.5-12. License Application.**

A person or individual desiring to operate a special transitory food unit shall submit a license application to the Code Compliance's Office. No application shall be processed until it is complete. The application shall contain the following information:

- (1) The applicant's name, address, phone number, and email.
- (2) The address and/or parcel number of the property where the special transitory food unit will be located.
- (3) The name, address, phone number, driver's license or photo identification and email of the party responsible for operating the special transitory food unit, if different from the applicant. If more than one individual is employed at the special transitory food unit, the names, addresses, phone numbers, driver's license or photo identification, and emails for all employees shall be provided.
- (4) If applicable, the license plate number of the special transitory food unit.
- (5) The proposed days and hours of operation and estimated staffing level.
- (6) Written permission from the owner of the property on which the special transitory food unit will operate.
- (7) A sketch depicting the location of the special transitory food unit, existing buildings, parking, streets, driveways, and sidewalks.
- (8) Any license, permit, or authorization required by any other ordinance, statute, or administrative rule.

**Sec. 30.5-13. Processing of License Application.**

A special transitory food unit license shall be issued or denied within ten (10) business days from the day the application was originally filed. If the application is denied, Code Compliance shall notify the applicant in writing of the specific reason(s) why the application was denied.

**Sec. 30.5-14. Enforcement.**

It shall be the responsibility of Code Compliance to enforce the terms of this article.

**Sec. 30.5-15. Fees.**

An application for a license under this ordinance shall be accompanied by a fee in the amount established in the schedule of fees adopted by the City Commission. There shall be no proration of fees. Fees are non-refundable once a license is issued by Code Compliance.

**Sec. 30.5-16. Requirements.**

Persons operating a special transitory food unit shall comply with the following requirements:

- (1) Special transitory food units shall not be located within any street right of way and shall be setback a minimum of twenty (20) feet from any property line, street right of way line, or structure.
- (2) Signage related to special transitory food units shall be in compliance with the regulations of the Benton Harbor Zoning Ordinance.
- (3) Special transitory food units shall be broken down and removed entirely from the site every day, no overnight storage of any kind shall be permitted. The operator shall remove all litter and debris attributable to the operation on at least a daily basis.
- (4) Outdoor seating, including but not limited to tables, chairs, benches, or stand upcounters shall be subject to the approval of Code Compliance.
- (5) An operator shall not extend power cables, extension cords or similar devices across any street, sidewalk or pathway and should have their own power source.
- (6) Special transitory food units shall be completely self-contained, and are prohibited from using water from public hydrants and disposing of liquid wastes, including but not limited to grease, into storm drains or sanitary sewers.
- (7) The special transitory food unit shall not be located so as to block a public sidewalk or pathway, designated fire lane, or otherwise impede pedestrian or vehicular movement.
- (8) No banners, streamers, flags, flashing or blinking lights shall be permitted on any portion of the site where a special transitory food unit is parked. A special transitory food unit shall not make or cause to be made any excessive noise. The operation of all special transitory food units shall be in compliance with the City noise ordinance, including generators.
- (9) Fire and electrical inspections of the special transitory food unit shall be conducted by the appropriate City personnel.
- (10) All operators shall provide a copy of their vehicle insurance. Operators who conduct business on City owned properties shall provide a copy of their Certificate of General Liability Insurance which names Benton Harbor as an additionally insured.
- (11) The special transitory food unit license from Benton Harbor, state sales tax license and special transitory food unit permit from the county health department shall be displayed at all times by the operator in a conspicuous location.

**Sec. 30.5-17. Sales Tax License.**

If an operator does not have a state sales tax license, Code Compliance shall send a notification to the registration section of the Michigan Department of Treasury at the time Code Compliance issues the license.

**Sec. 30.5-18. Revocation.**

Code Compliance shall revoke the license of any operator of a special transitory food unit who ceases to meet the requirements of this article; who commits fraud, misrepresentation or makes a false statement on their

application or in the course of operating the special transitory food unit; who is convicted of a felony; or who creates a public nuisance or constitutes a danger to the public health, safety, and welfare. Immediately upon such revocation the license shall become null and void and Code Compliance shall provide written notice to the licensee and property owner by certified mail to the address provided on the application. No person whose special transitory food unit license has been revoked shall be eligible to receive another license within the City for two (2) years from the date of license revocation.

**Sec. 30.5-19. Appeals.**

Any person aggrieved by an order, requirement, decision or determination of Code Compliance as it relates to this article may appeal to the City Manager in accordance with the following procedures:

- (1)** A written statement containing the specific reason(s) for the appeal must be filed with the City Clerk within fifteen (15) calendar days of the date of the decision sought to be appealed.
- (2)** The City Manager shall hold a meeting to offer an opportunity for the appealing party to present their appeal.
- (3)** The time and place for consideration of an appeal meeting shall be sent by the City Clerk by mail or personal delivery not less than ten (10) calendar days prior to the date of the meeting to the parties making the appeal.
- (4)** The City Manager shall issue their decision on the appeal within a reasonable time, not to exceed 10 business days. In their determination of the appeal, the City Manager may take, but is not limited to, any of the following actions:
  - (a)** Affirm the decision of Code Compliance with or without modification and with or without such conditions as the Manager deems necessary or appropriate to further the intent and purposes of this article.
  - (b)** Reverse the decision of Code Compliance and state its reasons for reversal.
  - (c)** Make any other decision, determination, order, or requirement that Code Compliance could have made with respect to the subject matter of the appeal.
- (5)** The City Clerk shall notify the parties making the request in writing of the City Manager's decision regarding the appeal.