

ORDINANCE NO 2021-6.1

1 AN ORDINANCE AMENDING TITLE XI OF THE CODE OF BENNET BY ADDING
2 A NEW CHAPTER 113 ENTITLED MOBILE FOOD VENDORS; ESTABLISHING PERMIT
3 REQUIREMENTS FOR ANY PERSON TO ENGAGE IN MOBILE FOOD VENDING ON
4 PUBLIC OR PRIVATE PROPERTY WITHIN THE VILLAGE OF BENNET; ESTABLISHING
5 APPLICATION PROCEDURES; ESTABLISHING PROCEDURES FOR ISSUANCE;
6 ESTABLISHING QUALIFICATIONS OF APPLICANTS; PROVIDING THAT PERMITS ARE
7 NON-TRANSFERRABLE; ESTABLISHING VENDING RULES; ESTABLISHING
8 GROUNDS FOR REVOCATION; PROVIDING FOR APPEALS OF DENIALS AND
9 REVOCATIONS; AND CODIFYING ALL SECTIONS BEGINNING WITH THE NUMBERS
10 113 UNDER A NEW CHAPTER 113 ENTITLED MOBILE FOOD VENDORS.

11
12 BE IT ORDAINED by the Chairperson and Board of Trustees of the Village of Bennet,
13 Nebraska:

14 Section 1. That Title XI of the Code of Bennet be amended by adding a new section 113.01
15 to read as follows:

16 **Chapter 113 MOBILE FOOD VENDORS**

17

18 **§ 113.01 Permit.**

19 Every owner and operator desiring to engage in Mobile Food Vending in the Village, whether on
20 public or private property, shall obtain a permit therefor as hereinafter provided. For purposes of
21 this Chapter, Mobile Food Vending shall mean traveling from place to place selling or offering for
22 sale prepared foodstuffs directly from a motor vehicle.

23 Section 2. That Title XI of the Code of Bennet be amended by adding a new section 113.02
24 to read as follows:

25 **§ 113.02 Application.**

26 Applications for permits under this chapter shall be filed with the Village Clerk/Treasurer on a
27 form to be furnished by the Village Clerk/Treasurer which shall require, at a minimum, the
28 following information:

- 29 a. Name, age, and description of the applicant;
30 b. Address;
31 c. Brief description of the nature of the business and the foods to be sold;

- 1 d. If employed, the name and address of the employer, together with documents verifying
- 2 such employment;
- 3 e. The length of time (not to exceed one year) for which the right to do operate a food truck
- 4 in the Village is desired;
- 5 f. A description of the vehicle to be used, together with the license number;
- 6 g. A photograph of the applicant, taken within sixty days immediately prior to the date of the
- 7 filing of the application, which picture shall be two inches by two inches showing the head
- 8 and shoulders of the applicant in a clear and distinguishing manner;
- 9 h. A statement as to whether or not the applicant has been convicted of any crime or
- 10 misdemeanor, the nature of the offense, and the punishment or penalty assessed therefor;
- 11 i. At the time of filing the application, a nonrefundable permit fee of twenty-five dollars shall
- 12 be paid to the Village Clerk/Treasurer.

13 Section 3. That Title XI of the Code of Bennet be amended by adding a new section 113.03

15 to read as follows:

16 **§ 113.03 Issuance.**

- 17 a. Upon receipt of an application as described in Section 113.02, the Village Clerk/Treasurer
- 18 shall endeavor to determine if the statements contained within the application are true and
- 19 correct and shall approve or deny such application within thirty days as provided herein.
- 20 b. If, as a result of such investigation, the Village Clerk/Treasurer finds that the statements
- 21 within the application are materially untrue or incorrect, or if it is found that the applicant
- 22 has been convicted within the past ten years of a felony or a crime involving moral
- 23 turpitude, the Village Clerk/ Treasurer shall deny such application and provide written
- 24 reasons for the disapproval, and notify the applicant that his or her application is
- 25 disapproved and that no permit will be issued.
- 26 c. If, as a result of such investigation, the statements contained in the application are found to
- 27 be true and correct, and the applicant has not been convicted within the past ten years of
- 28 any felony or any crime involving moral turpitude, the Village Clerk/Treasurer shall
- 29 approve the application and issue the permit.

30 The permit shall contain the signature and seal of the issuing officer and shall show the name and

31 address of the permittee and the kind of foods to be sold thereunder, the date of issuance, and the

32 length of time the same shall be operative. The Village Clerk/Treasurer shall keep a permanent

33 record of all permits issued.

34 Section 4. That Title XI of the Code of Bennet be amended by adding a new section 113.04

35 to read as follows:

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1 **§ 113.04 Qualifications of Applicant.**

2 No permit shall be issued to any person:

- 3 a. who has been convicted of a felony or a crime involving moral turpitude within the ten
4 years immediately preceding the date of the filing of such application with the Village
5 Clerk/Treasurer; or
6 b. who is under the age of sixteen years unless the applicant first obtains an employment
7 certificate as required by state law.

8 Additionally, any person whose permit has been revoked pursuant to Section 113.12 shall not be
9 eligible for the issuance of a new permit for a period of six months from the date of such revocation
10 and only upon meeting the other qualifications required hereunder.

11 Section 5. That Title XI of the Code of Bennet be amended by adding a new section 113.05
12 to read as follows:

13 **§ 113.05 Transfer.**

14 Permits issued under this chapter shall be nontransferable and no such permit shall be used at any
15 time by any person other than the one to whom it was issued.

16 Section 6. That Title XI of the Code of Bennet be amended by adding a new section 113.06
17 to read as follows:

18 **§ 113.06 Exhibition of Permit.**

19 Vendors shall exhibit their permit at the request of any Village officer or at the request of any
20 customer.

21 Section 7. That Title XI of the Code of Bennet be amended by adding a new section 113.07
22 to read as follows:

23 **§ 113.07 Vendor's Truck; Safety Equipment Required.**

24 In addition to other equipment required by law, every vendor's truck shall be equipped with a
25 convex mirror mounted on the front so that the driver in his or her normal seating position can see
26 the area in front of the truck obscured by the hood.

27 Section 8. That Title XI of the Code of Bennet be amended by adding a new section 113.08

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1 **§ 113.08 Expiration of Permit.**

2 All permits issued under the provisions of this chapter shall expire on the date specified in the
3 permit, but in no event later than one year after the issuance of the same.

4 Section 9. That Title XI of the Code of Bennet be amended by adding a new section 113.09
5 to read as follows:

6 **§ 113.09 Vending Rules.**

7 It shall be unlawful to engage in vending except in accordance with the following rules:

- 8 a. A permittee engaged in vending shall have in full force and effect a permit issued by the
9 Village Clerk/Treasurer as herein provided; a sales tax permit from the State of Nebraska
10 (or showing of exemption) and a permit issued by the Department of Agriculture of the
11 State of Nebraska, as required by the Nebraska Pure Foods Act;
- 12 b. A permittee shall vend only when the vendor's truck is lawfully parked or stopped;
- 13 c. A permittee shall vend only from the side of the vendor's truck away from moving traffic
14 and at the curb or edge of the roadway;
- 15 d. A permittee shall not vend to a person standing in the roadway;
- 16 e. A permittee shall not vend on a street unless there is a clear view of the vendor's truck for
17 a distance of 200 feet in each direction;
- 18 f. A permittee shall not vend on state highways, , or on streets where the speed limit exceeds
19 twenty-five miles per hour;
- 20 g. A permittee shall not allow a vendor's truck to stand in any roadway longer than 4 hours in
21 any one location; and
- 22 h. A permittee shall not allow a vendor's truck to park or stop for any period of time on or
23 within 150 feet of a portion of a street or roadway which is adjacent to any school grounds
24 during the period of time from 8:00 a.m. to 4:30 p.m.
- 25 i. A permittee shall comply with all applicable local, county and state noise ordinances, and
26 shall use no loud or offense device to attract customers.

27 Section 10. That Title XI of the Code of Bennet be amended by adding a new section 113.10
28 to read as follows:

29 **§ 113.10 Hours of Operation.**

30 Mobile food vendors are not allowed to operate in the public right-of-way between the hours of
31 9:00 p.m. and 6:00 a.m. the following day, seven days a week. Mobile food vendors are not
32 allowed to operate on private property between the hours of 12:00 midnight and the following 6:00
33 a.m., seven days a week.
34

1 Section 11. That Title XI of the Code of Bennet be amended by adding a new section

2 113.11 to read as follows:

3 **§ 113.11 Litter Control.**

4 Mobile food vendors shall be responsible for providing a trash bin for public use with a capacity
5 of not less than 30 gallons. All litter within 25 ft. of the mobile food vending unit shall be removed
6 by the mobile food vendor upon closing. Litter shall be removed at the mobile food vendors
7 expense and shall not be placed in an unauthorized private or Village receptacle.

8
9 Section 12. That Title XI of the Code of Bennet be amended by adding a new section

10 113.12 to read as follows:

11 **§ 113.12 Revocation of Permit.**

- 12 a. Permits issued under the provisions of this chapter may be revoked by the Village Clerk/
13 Treasurer of the city after notice and hearing for any of the following causes:
- 14 1. Fraud, misrepresentation, or false statement contained in the application for the
15 permit;
 - 16 2. Fraud, misrepresentation, or false statement made in the course of carrying on the
17 permittee's business;
 - 18 3. Any violation of this ordinance;
 - 19 4. Conviction of any felony or crime involving moral turpitude.
- 20 b. Notice of the hearing for revocation of the permit shall be given in writing, setting forth
21 specifically the grounds of complaint and the time and place of hearing. Such notice shall
22 be mailed, postage prepaid, to the permittee at his or her last known address at least five
23 days prior to the date set for hearing.

24 Section 13. That Title XI of the Code of Bennet be amended by adding a new section

25 113.13 to read as follows:

26 **§ 113.13 Appeal.**

27 Any person aggrieved by the action of the Lancaster Sheriff's Office or the Village Clerk/Treasurer
28 in denial of an application for a permit, or in a decision with reference to the revocation of a permit
29 under this chapter, shall have the right of appeal to the Village Board of Trustees. Such appeal
30 shall be taken by filing with the Village Clerk/Treasurer, within fourteen days after notice of the
31 action complained of has been mailed to such person's last known address, a written statement
32 setting forth the grounds for the appeal. The Board of Trustees shall set a time and place for hearing
33 on such appeal and notice of such hearing shall be given to the person aggrieved. The Board of
34 Trustees shall render a decision within thirty days after the hearing.

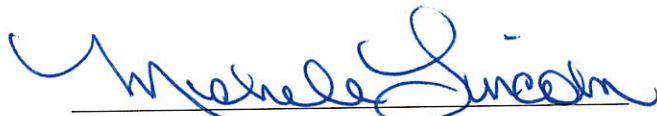
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1 Section 14. That Sections 1 through 13 of this Ordinance shall be codified in the Code of
2 Bennet as Chapter 113 entitled "Mobile Food Vendors."

3 Section 15. That this ordinance shall take effect and be in full force from and after its
4 passage, approval, and publication or posting as required by law.

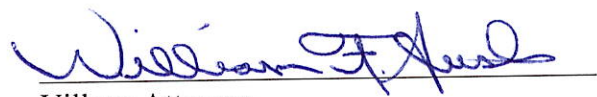
5 PASSED AND APPROVED on this 14th day of June, 2021.

ATTEST:


Village Clerk/Treasurer


Chairperson, Village Board of Trustees

APPROVED AS TO FORM AND LEGALITY:


Village Attorney

