

KVP

CHAPTER 115: MOBILE FOOD ESTABLISHMENTS

Section

- 115.01 Definitions
- 115.02 General provisions
- 115.03 Permits
- 115.04 Authority of Fire Department
- 115.05 Administration
- 115.06 Enforcement and penalties

§ 115.01 DEFINITIONS.

The following words, terms, and phrases, when used in this chapter, shall have the following meanings:

APPLICANT(S). An individual, corporation, association, partnership, trust, firm, or similar entity.

MOBILE FOOD ESTABLISHMENT. A licensed and operable motor vehicle or trailer, which includes any commercial kitchen equipment used for cooking that operates in a transient or static location and involves the preparation, cooking, and sale of food and/or nonalcoholic beverages in a ready-to-consume state for consumption either on or off the premises, but not within the motor vehicle and/or trailer.

PRIVATE EVENT. An event that is not open to the general public, including, but not limited to, private parties, church events, private fundraisers, and block parties.

STATIC MOBILE FOOD ESTABLISHMENT. A mobile food establishment parked and/or operating in a fixed location for greater than a five hour period. *OR ON A CONSISTANT BASIS AT SAME LOCATION*

TEMPORARY OR TRANSIENT MOBILE FOOD ESTABLISHMENT. A mobile food establishment parked and/or operating in any one area for less than a five hour period. *permitted*

VILLAGE EVENT. Events coordinated or sponsored by the village and located within the village or designated as such by resolution of the Village Council.

(Ord. 13.05, passed 5-23-22)

§ 115.02 GENERAL PROVISIONS.

Mobile food establishments shall comply with the following standards:

(A) **Property owner permission.** Mobile food establishments operating on private or public property must receive the property owner's written consent prior to operation.

(B) **Location.** Mobile food establishments that meet the standards of this chapter may be permitted in all zoning districts, unless restricted, prohibited, or otherwise regulated by the Village Zoning Ordinance or any other applicable village ordinance.

(C) **Insurance.** All mobile food establishments shall have proper vehicle registrations and current/valid registration plates. All vehicles shall be properly insured in accordance with state law.

Attachment: Mobile Food Establishments Ordinance (6106 : Review of Mobile Food Establishments Ordinance)

(D) **Alcoholic liquor.** Mobile food establishments shall not serve alcoholic liquor or allow the consumption of alcoholic liquor in their service area(s) or dining area(s) unless applicant has obtained all appropriate permits required by the State of Michigan and any necessary approvals from the village.

(E) **Hours of operation.** Mobile food establishments shall not operate before 6:00 a.m. or after 10:00 p.m. unless otherwise permitted expressly in writing by the village as part of a village event.

(F) **Service area.** The area(s) where customers stand in line to place or pick up an order (service area(s)) for mobile food establishments shall not be located on a street, road, or within the road right of way, and, if in a parking lot, shall be located a safe distance from the travel lanes of a parking lot. Allowable service areas are subject to village and township Fire Department approval.

(G) **Dining areas.** The area(s) where customers may sit or stand at tables to consume food or beverages (dining area(s)) shall not be located on a street, road, or within the road right of way, and, if in a parking lot, shall be located safe distance from the travel lanes of a parking lot. Allowable dining areas are subject to village and township Fire Department approval.

(H) **Preparation and storage.** Food shall not be prepared, sold, or displayed outside of the mobile food establishment as set forth as follows:

Leave (1) **Outdoor preparation.** Outdoor cooking facilities, including grills not contained within a mobile food establishment, are prohibited.

(2) **Materials, food, and supplies.** All materials, food, and supplies must be stored within a mobile food establishment, or may be adjacent to a mobile food establishment, if in an enclosed container. Food and condiments may be displayed on shelving attached to the mobile food establishment.

(I) **Obstructions.** Mobile food establishments and their respective service areas and dining areas shall not obstruct or impede vehicular, pedestrian, or non-motorized travel or movement, nor create visual obstructions for vehicular traffic.

(J) **Awnings.** Any awning shall have a minimum clearance of seven feet between the ground and the lowest point of the awning when fully extended.

(K) **Waste.** Waste associated with mobile food establishments shall be managed as set forth as follows:

(1) **Waste container.** Mobile food establishments must be equipped with sufficient garbage or refuse containers to handle their waste, including one provided for patrons.

(2) **Daily cleaning.** All waste, spilled food, food byproducts, and litter left by customers associated with each mobile food establishment (collectively "waste"), shall be cleaned up and collected, and thereafter properly and lawfully disposed of, by the mobile food establishment operator at least daily.

(3) **Dumping of fluids.** Dumping of gray water, grease, or any other fluid onto land or any street or into any storm sewer is prohibited.

(L) **Noise.** Mobile food establishments shall not make or cause any unreasonable or excessive noise that is in violation of village ordinances.

(M) **Lighting.** Lighting associated with mobile food establishments shall not cause distractions for motorists or create negative impacts for surrounding properties.

(1) **Non-steady lights.** Flashing, blinking, or moving lights are prohibited when a mobile food establishment is parked or serving customers.

(2) **Shielding.** All exterior lights greater than 800 lumen, equivalent to a 60 watt incandescent light bulb, shall have an opaque shield to direct illumination downwards.

(N) *Signage.* Only signs attached to, or mounted on, the mobile food establishment shall be authorized, and all signs shall conform to the location, size, height, number, and other standards set forth in the Village Sign Ordinances.

(O) *Fire Code.* Mobile food establishments shall be subject to an annual inspection by the Orion Township Fire Department to confirm compliance with Michigan Fire Protection Code standards, including, but not limited to, standards required for fire extinguishers, fire extinguishing systems, compressed gas/liquid propane gas, generators, electrical, location, and general fire safety.

(P) *Water.* Mobile food establishments shall not be temporarily connected to a water source unless the applicant provides verification to the village and township that it is a potable water source.

(Q) *Sewer.* Mobile food establishments shall not be connected to sanitary or storm sewer facilities.

(R) *Wheel chocks.* Mobile food establishments shall use wheel chocks while parked to prepare or distribute food.

(S) *Overnight parking and equipment storage.*

(1) In any zoning district, other than commercial or industrial zones, unless stored entirely within an enclosed building, overnight parking of a mobile food establishment and outside overnight storage of any equipment associated with a mobile food establishment, including, but not limited to, tables, chairs, and waste receptacles ("associated equipment"), is prohibited, except as may be expressly permitted for mobile food establishments associated with a village event.

(2) On properties within commercial or industrial zoning districts, and if allowed by the terms of its permit, a mobile food establishment may be parked outside overnight; however, overnight storage of a mobile food establishment's associated equipment outside of an enclosed building, or outside of a mobile food establishment, is prohibited.

(T) *Display of permits.* Mobile food establishments shall prominently display any required permits and licenses while in operation.

(Ord. 13.05, passed 5-23-22)

§ 115.03 PERMITS.

It shall be a violation of this chapter to operate a mobile food establishment without the necessary licenses, permits, and approvals, as set forth below.

(A) *Mobile food establishment permit.* Open mobile food establishments shall obtain a permit on an annual basis as set forth in more detail below, which shall be valid for one calendar year, provided that the applicant remains in compliance with the permit requirements.

(B) *Oakland County Health Department permit.* All mobile food establishments must obtain and maintain any permits and approvals required by the Oakland County Health Department.

(C) *State of Michigan.* All mobile food establishments must obtain and maintain any permits, licenses, and approvals required by the Michigan Department of Agriculture and Rural Development.

(D) *Others.* All mobile food establishments must obtain and maintain any other permits, approvals, or licenses required by law.

(E) *Transferability.* A license or permit issued under this chapter shall not be transferred from person to person or to another mobile food establishment.

(Ord. 13.05, passed 5-23-22)

§ 115.04 AUTHORITY OF FIRE DEPARTMENT.

Attachment: Mobile Food Establishments Ordinance (6106 : Review of Mobile Food Establishments Ordinance)

ordinance permitting

The Township of Orion, a Michigan Municipal Corporation, whose address is 2323 Joslyn Road, Lake Orion, MI 48360, and its Fire Department, Fire Code Official and personnel shall serve as the Village of Lake Orion's enforcing agency that shall administer and enforce this chapter in and on behalf of the Village of Lake Orion as authorized by the Urban Cooperation Act of 1967, 1967 Public Act 7, M.C.L.A. §§ 124.501, et seq. The Township of Orion shall be vested with all lawful authority to administer and enforce the Village of Lake Orion's Mobile Food Establishment Ordinance and it shall be deemed sufficient in any action for enforcement of the provisions hereof as a violation of this code.

(Ord. 13.05, passed 5-23-22)

§ 115.05 ADMINISTRATION.

This chapter shall be administered by the Charter Township of Orion, Fire Chief and/or their designee, as outlined below.

(A) *Order of process.* The following shall be the order of process in obtaining a mobile food establishment permit:

- (1) Applicant submits permit application to the Orion Township Fire Department.
- (2) Fire Department schedules an inspection with the applicant.
- (3) Fire Department conducts the inspection.

(4) If the mobile food truck establishment meets all requirements of this chapter and the Village Zoning Ordinance (where applicable), the Fire Department shall issue a permit under this chapter. The Fire Department shall also provide the applicant with a mobile food truck sticker and applicant shall prominently display its sticker on the outside of the mobile food establishment.

(B) *Mobile food establishment permit application.* A mobile food establishment permit shall include the following materials:

- (1) A signed and completed application form;
- (2) Description of the proposed annual event(s);
- (3) Depictions of all locations where the mobile food establishment will be parked and providing services and where dining areas will be located, and, if in a parking lot, how the service/ dining areas will be delineated for safety purposes; *should be determined by VLO*
- (4) Any necessary written permission from property owners;
- (5) A fee, as adopted by resolution of the Township Board; and *VLO*
- (6) Any additional information necessary to determine compliance with this chapter and other applicable ordinances, laws, permits, and regulations.

(C) *Timely submission.* Mobile food establishments shall submit a permit application two business days before any needed inspection to operate. In the event an applicant requests a permit for a mobile food establishment and is in need of an inspection with less than two business days' notice, the applicant shall be subject to payment of an increased permit fee as set forth by resolution of the Township Board. *VLO*

(D) *Complete and accurate.* Submission of an application constitutes a representation that all of the information is complete and accurate.

(E) *Issuance.* Annual mobile food establishment permits shall be issued by the Township Fire Chief and/or their designee after the permit applicant has passed an inspection conducted by the fire department. All permits issued by the fire department shall expire on December 31 of every calendar year as long as the applicant remains in compliance with the provisions of this chapter and other

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applicable ordinances, permits, regulations, and laws. The review shall be conducted in consultation with the Fire Chief or their designee and other applicable entities and agencies.

(F) *Operating without a permit.* In the event a mobile food establishment is found to be operating without a permit, it shall constitute a violation of this chapter and shall constitute a civil infraction as defined by Michigan law and shall be subject to a civil fine of not more than \$500, as set forth in this chapter.

(G) *Withholding permit.* Issuance of any license or permit may be withheld pending verification that any other necessary approvals have been granted.

(H) *Conditions.* Reasonable conditions may be placed on approvals, as outlined below.

(1) *Health, safety, and welfare.* Conditions shall be designed to protect the health, safety, and welfare of the patrons, vendors, adjacent property owners, and the community as a whole.

(2) *Police power.* Conditions shall be related to the valid exercise of the police power and purposes affected by the activity.

(3) *Compliance.* Conditions shall be designed to ensure compliance with the provisions of this chapter, other village ordinances, county requirements, and state and federal law.

(I) *Suspension and revocation.* As outlined below, an approval may be immediately suspended on a temporary or permanent basis by the Orion Fire Chief and/or their designee.

(1) *Notice.* The applicant shall receive written notice of the possible suspension or revocation, including the reason for the suspension or revocation, and actions necessary, if any, to prevent the suspension or revocation.

(a) *Decision criteria.* The ~~Township Board of Trustees~~ ^{VLO} may issue an order to suspend or revoke a mobile food establishment permit if the ~~Board of Trustees~~ makes any of the following findings: An imminent threat exists to the health, safety, or welfare of persons or neighboring properties; or

(b) The applicant has violated or currently fails to comply with any condition of its license or permit or with any applicable ordinance, county requirement, or state or federal law.

(2) *Effect.* Upon revocation of an approval, all activity shall cease immediately, except for work related to securing the site or correcting a violation, as determined by the ~~Fire Chief~~ and/or their designee. ^{Lo PD}

(J) *Appeal.* Appeals of decisions made in the administration of this chapter shall be heard and decided by the Village Council.

(Ord. 13.05, passed 5-23-22)

But township sets rules decision criteria (A)

§ 115.06 ENFORCEMENT AND PENALTIES.

A violation of this chapter or any license, permit, or condition issued under this chapter is a municipal civil infraction and subject to enforcement, as set forth below.

(A) *Party to violation.* Any person who violates this chapter, or fails to comply with its terms, or with any of the conditions of any license or permit, shall be responsible for a municipal civil infraction. Any property owner who violates or allows a violation of this chapter on his/hers property shall be responsible for a municipal civil infraction.

(B) *Each day.* Each day that any violation exists or continues shall be deemed a separate offense.

(C) *Penalty.* Any person or other entity who causes or permits to continue a public nuisance as prohibited by the chapter is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than \$500, plus costs, which may include all direct or indirect

expenses to which the township has incurred in connection with the violation. A violator of this chapter shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this chapter continues to exist constitutes a separate violation.

(Ord. 13.05, passed 5-23-22)

Attachment: Mobile Food Establishments Ordinance (6106 : Review of Mobile Food Establishments Ordinance)

1. **Motion to:** approve the Monday, September 11, 2023 regular meeting of the Lake Orion Village Council amended as follows: move agenda Item No. 2 to No. 1 and renumber the agenda respectively

RESULT:	APPROVED AS AMENDED [UNANIMOUS]
MOVER:	Jerry Narsh, President
SECONDER:	Carl Cyrowski, Council Member
AYES:	Narsh, Rutt, Cyrowski, Ford, Lamb, Moshier, VanPortfliet

8. Public Hearings

9. Agenda Items for Consideration

A. Financial Matters

1. Invoice Approval -September 12, 2023

RESULT:	ADOPTED [5 TO 2]
MOVER:	Kenneth VanPortfliet, Council Member
SECONDER:	Teresa L Rutt, President Pro Tem
AYES:	Narsh, Rutt, Cyrowski, Ford, VanPortfliet
NAYS:	Michael Lamb, Nancy Moshier

RESOLVED: To approve September 12, 2023 bills in the amount of \$159,804.86 of which \$13,570.90 are DDA Bills for a net total of \$146,233.96 are approved for payment; and to receive and file the DDA bills.

B. Other Items

1. Review of Mobile Food Establishments Ordinance

Village Manager McClary stated that pursuant to the request of Council Member Van Portfliet at the May 22, 2023, regular meeting, Council is scheduled to review the Village's current Mobile Food Establishments ordinance, Lake Orion Code of Ordinances, Sec. 115.01 et. seq. He noted that to date, administration has received suggested changes to the Mobile Food Establishments Ordinance from Council Member Van Portfliet, which have been provided to Council in the packet.

Council Members discussed the following items related to the Mobile Food Establishments Ordinance:

- State regulations and requirements for mobile food establishments
- Enforcement and the lack of funding
- Commercial Vehicle Ordinance as it relates to mobile food

establishments

- **Permit approval should be by Village Council**
- **Variance for unique situations**
- **Using Zoning Ordinance to regular mobile food establishments and the issues with granting use of the land through the Zoning Ordinance**
- **Definitions may be used to clarify differences in trucks**
- **Issues with food trucks using the M24 corridor.**
- **Mobile Food Establishments for special community events only and/or for private events**

Council Member Moshier exited from 8:21 PM to 8:23 PM

- **Use of Mobile Food Establishments for private parties**
- **Requests from Mobile Food Establishments include:**
 - **Time to have for setting up operations and taking it down**
 - **Areas they can operate**
 - **Ability to keep food truck at residence to prep; day before and after the event**

RESOLVED: To direct the Administration to prepare a proposed draft ordinance which include Council Member Van Portfliet's comments submitted at the September 11, 2023 regular Village Council meeting; provide definitions for public events and private events with time duration of 5 days for public events and 3 days for private events; address storage or parking for prep time up to 48 hours; and check with the Commercial Vehicle Ordinance on how to allow food trucks to be allowed at the owners home for preparation up to 48 hours.

2. Payment Application No. 5 - Meeks Park Pedestrian Bridge Replacement Project - JSS Macomb LLC

Village Manager McClary stated that the Administration is requesting Council approve Payment Application No. 5 from JSS-Macomb, LLC., in the amount of \$5,475.68 for the Meeks Park Pedestrian Bridge Replacement Project. This pay application represents the final payment for this project.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Teresa L Rutt, President Pro Tem
SECONDER:	Kenneth VanPortfliet, Council Member
AYES:	Narsh, Rutt, Cyrowski, Ford, Lamb, Moshier, VanPortfliet

RESOLVED: To approve Payment Application No. 5 from JSS-Macomb, LLC, in the amount of \$5,475.68 for the Meeks Park Pedestrian Bridge Replacement Project as