

**PUBLIC HEARING/MONTHLY COUNCIL MEETING**

CONFERENCE ROOM VILLAGE HALL 7227 HURON AVE., LEXINGTON, MI

**AGENDA**

**DATE OF MEETING:** MONDAY, OCTOBER 21, 2019  
**TYPE OF MEETING:** PUBLIC HEARING/SPECIAL COUNCIL MEETING  
**TIME OF MEETING:** 7:00 P.M.

**CALL TO ORDER THE PUBLIC HEARING**

**PURPOSE: TO HEAR COMMENTS AND THE AMENDMENTS TO THE VILLAGE CODE OF ORDINANCES, CHAPTER 46, ARTICLE II, SECTIONS 46-31, 46-33-34, 46-57-62 AND ARTICLE III, SECTIONS 46-63-77.**

**PUBLIC COMMENT**

**CLOSE PUBLIC HEARING**

**PLEDGE OF ALLEGIANCE**

**CALL TO ORDER / COUNCIL MEETING**

**ROLL CALL BY CLERK**

**PUBLIC COMMENT**

**BUSINESS: Pages 1-12**

**ADMINISTRATION**

- A. CHAPTER 46, ARTICLE II, SECTIONS 46-31, 46-33-34, 46-57-62 PEDDLERS AND HAWKERS
- B. CHAPTER 46 ARTICLE III, SECTIONS 46-63-77 FOOD TRUCKS
- C. RESOLUTION 2019-09 MOBILE FOOD VENDING

**PUBLIC COMMENT**

**COUNCIL PERSON COMMENTS**

**ADJOURNMENT**

**Chapter 46 PEDDLERS AND SOLICITORS**  
**ARTICLE I. In General**

Sec. 46-1-46-30     **Reserved**

**ARTICLE II. Peddlers**

DIVISION 1. GENERALLY

**Intent:** Peddlers and solicitors are meant to be an enhancement to an event. They must ensure safe practice and avoid any nuisance to the community.

Sec. 46-31. **Definitions.**

LICENSE ISSUED FOR SPECIAL EVENTS ONLY

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

- (1) Authorized officer includes any Lexington police officer and all Village of Lexington administrative officers and their designees.
- (2) ~~Established competing business is a Village business engaged in sales of substantially similar products/services at a permanent location, whether they own or lease the property or otherwise have a written agreement with the Village of Lexington to be in this location.~~
- (3) Exempt organizations shall mean any recognized nonprofit organizations or societies making sales for charitable, educational, religious, fraternal, labor, political groups or for public purpose. Arts/crafts vendors operating with consent of the organization sponsoring clients approved by the village council; provided the duration of their event is less than seven days.
- (4) Licensee shall mean a person or business authorized under this article to sell in the village as a peddler/solicitor or transient merchant.
- (5) Peddler shall mean any person who travels about by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, or from street to street, selling his/her product/service. The word "peddler" shall include the words "hawker" and "huckster."
- (6) Person shall mean any person, firm, association, corporation, limited liability company, partnership, corporation or other business entity, regardless of whether a resident of the village or not.
- (7) Product and or service, shall mean goods, wares, merchandise, flowers, pre-packaged food items, ~~meats, fish, vegetables, fruit,~~ garden truck, farm products, etc., or work done for others as an occupation or business.

(8) Removable stand means a non-motorized cart, kiosk, or other unit capable of being pushed by one person, with at least two functional wheels, and must be self-contained and capable of mobility at all times.

(9) Solicitor shall include any person traveling about by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, engaged in the business of taking orders, making contracts for the purchase of products/service for future delivery or any person who shall employ a representative, agent, or crew to engage in such activity. The word solicitor shall also include the "canvasser."

(10) Transient merchant means any person, whether as owner, employee, agent, or consignee, who engages in a temporary business from a stationary location on commercially-zoned private property to sell and deliver a product/service, display examples and take orders or make contract for the purchase of a product/service for future delivery, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public rooms in hotels, motels, lodging houses, apartments, shops, etc., for the exhibition and sale of such product/service, either privately or at public auction. The person so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part or, or in the name of any local dealer, trader, merchant or auctioneer.

(11) Veteran shall mean any veteran qualifying for a state peddler's license issued by the county clerk pursuant to Public Act NO 359 of 1921 as amended (MCL 35.441 et seq.) who has provided a copy of said license to the Village of Lexington clerk.

**Sec. 46-32. Duties of police.**

Police officers of the village shall require any person seen peddling, and who is not known by such officers to be duly licensed, to produce his peddler's license and shall enforce this article against any person found to be violating any of the provisions of this article.

**(Ord. No. 81, § 11, 2-13-1984)**

**Sec. 46-33. Use of streets.**

~~No peddler shall have any exclusive right to any location in the public streets or be permitted a stationary location or be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. Location dictated by sponsoring event host.~~

**(Ord. No. 81, § 9, 2-13-1984)**

**Sec. 46-34. Restrictions on sale of food.**

- (a) No licensee shall sell or offer for sale any unsound, unripe or unwholesome food or drink or defective, faulty or deteriorated article of food.
- ~~(b) No licensee shall make a sale of food or drink to any person under the age of 12 years on any property nearer the traveled portion of any street than the side of the public sidewalk nearest to the pavement, or, where no public sidewalk exists, nearer than ten feet from the outer edge of such pavement. Where streets are unpaved, this restriction shall be deemed to apply to that portion of the street set aside for or used by vehicular traffic.~~

**(Ord. No. 81, § 6(c), (e), 2-13-1984)**

Secs. 46-35--46-55. Reserved.

**DIVISION 2. LICENSE**

**Sec. 46-56. Required.**

**(a)** No person shall engage in the business of peddling within the village without first obtaining a license through the event sponsor. Military veterans with valid permits issued by the county clerk who become licensed by the village prior to soliciting shall be exempt from paying required fees. The veteran must be the actual person selling the goods or wares. Failure to comply with license provisions will result in ticketing and order to cease operation and immediate removal from the premises.

**(b)** Any person who engages in the business of hawking, peddling or vending according to the provisions of this article, without a license, or who shall violate any of the provisions of this article, shall be subject to the penalties for a Grade C civil infraction. Each day or part of a day that a person shall hawk, peddle or vend without a valid license shall be considered a separate violation of this article.

**Sec. 46-57. Exempted activities Vendors.**

~~(1) Exemptions from license fee only. Any established competing business which sells a product/service at a permanent location within the Village with the written consent of organizations sponsoring events approved by village council; or is a veteran of exempt organization (as defined in section 46-31) shall be exempt from payment of licensing fees only. Responsible for the cost of utilities if any used, supervisory, clean up costs, processing fees, and investigation fee. All vendors must apply for peddler's license. All other provisions of this article apply.~~

**(2)** Other exemptions. The following shall be exempt from this division in its entirety:

- (1) Newspaper salespersons or delivery persons.
- (2) Persons traveling on an established route at the request, expressed or implied of their customers.
- (3) Salespersons calling on business establishments.

- (4) Any person under 18 years of age when engaged in peddling on foot in the neighborhood of their residence under the direct supervision of any school or recognized charitable or religious organization.
- (5) Veterans

Sec. 46-58. Application.

Applicants for a license under this ordinance must file with the village clerk sponsoring event host a sworn application in writing, ~~on a form to be furnished by the village clerk~~, which form shall contain the following information for each occurrence:

- (1) The name of the applicant, the business, and other identifying information;
- (2) The applicant's address, both legal and local;
- (3) A brief description of the nature of the business and the goods or wares to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the vehicle, together with the license number or other means of identification;
- (7) ~~A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be AT LEAST two inches by two inches showing the head and shoulders of the applicant in a clear and distinguished manner; Must possess a valid driver's license valid drivers license or state id of the applicant~~
- (8) A statement as to whether or not the applicant has been convicted of any crime and, if so, the nature of the offense and the punishment or penalty assessed.
- (9) The number of the applicant's sales or use tax license.
- (10) Peddlers must follow all building codes and requirements and must obtain permits when required.
- (11) Other license requirements. A copy of the county health certificate approval must be submitted prior to issuance of a license by the village if applicable. In addition, it will be the obligation of the licensee to obtain any other required licenses from the county and/or state.
- (12) Insurance

Sec. 46-59. **Fee.**

~~At the time of filing the application for a license required by this ordinance, a fee, which shall be from time to time set by the village council and a schedule of which shall be available at the village clerk's office for examination, shall be paid~~

to the village clerk to cover the cost of processing, investigation, supervision, and clean up. The fee is required for each separate sponsored event of four (4) consecutive days or less. Any fees for participation in an event are established and collected by the event host.

(Ord. No. 81, §§ 4(b), 7, 2-13-1984; Ord. of 5-14-1990)

Sec. 46-60. **Investigation of applicant; issuance.**

(a) Upon receipt of the application for a license required by this ordinance, the original shall be referred to the police department, who shall cause such investigation of the applicant's moral character to be made using a professional agency that specializes in personal background investigations for the protection of the public good.

(b) If as a result of such investigation the applicant's character or business responsibility is found not to have good moral character, the officer shall endorse on such application his disapproval and his reasons for disapproval and return the application to the village clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.

(c) If as a result of such investigation the applicant is found to be of good moral character, the officer shall endorse on the application his approval and return such application to the village clerk, who shall, upon payment of the prescribed license fee, issue a license.

(d) No license to peddle prepared food in the village shall be issued under this division except to the person holding a current food handler's certificate issued the county and person in direct contact with end user. Every applicant shall be 16 years of age or over.

(e) Such license shall contain the signature of the issuing officer and shall show the:

(1) Name and address of the licensee;

(2) Class of license issued and the kind of goods or wares to be sold under the license;

(3) Amount of fee paid, the date of issuance and the length of time the license shall be operative; and

(4) License number and other identifying description of any vehicle used in such peddling.

Event Sponsor will be responsible for handling the cost of all necessary background checks. Background checks can be provided by the Village of Lexington at a cost to the event sponsor.

The village clerk-event sponsor shall keep a permanent record of all licenses issued for three years and provide the Village with a copy of those licenses annually.

All applicants must provide proof of insurance in an amount as determined by the village council before a license is issued.

~~No licensee shall sell their goods or wares in the village or within 200 feet of a permanent village business that sells the same goods or wares.~~

~~No licensee shall sell their goods or wares in the area or adjoining area of a village approved event without written permission of the organization conducting the event.~~

~~No truckload style events shall be conducted on public property. Truckload style events held on private property must have the written permission of the property owner and not to exceed four consecutive days more than twice a year.~~

~~Written authorization must be granted by the village or designated organization to sell goods or wares on village property.~~

**(Ord. No. 81, §§ 5, 6(a), 2-13-1984)**

Sec. 46-61. **Exhibition.**

~~Peddlers are required to exhibit their licenses at the request of any resident of the village, in a visible location for the duration of their stay.~~

**(Ord. No. 81, § 10, 2-13-1984)**

Sec. 46-62. **Record of licenses issued, reports of violations.**

The police department shall report to the village clerk all convictions for violations of any of the provisions of this ordinance, and the village clerk shall maintain a record for each license issued and record the reports of violations in such record.

~~All vendors license for Village Parks will only be issued for Council approved events. All events approving licenses must be Council approved events.~~

**(Ord. No. 81, § 12, 2-13-1984)**

Chapters 47--49 RESERVED [UIL]

**AN ORDINANCE TO AMEND CHAPTER 46 OF THE LEXINGTON CODE OF ORDINANCES,  
CREATING A NEW ARTICLE III MOBILE FOOD VENDING**

**THE VILLAGE OF LEXINGTON ORDAINS THE FOLLOWING ARTICLE BE CREATED:**

**Mobile Food Vending**

An amendment to Chapter 46. Allowing for there to be up to four (4) food vendors operating on Village property at a given time in the designated locations. There will be blackout dates associated with sponsored events when mobile food vendors may not operate on Village property unless invited by the event sponsors. Those dates will correlate with Village Council approved events. There shall be up to four (4) food vendors operating on private property during a given time (limit of 1 mobile food vendor per parcel of land at a time). All mobile food vendors are allowed a maximum stay of 4 days in one location before their mobile unit must leave the location and must be gone at least 24hrs before it can return.

**Division 1. Generally**

**Intent.**

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

**Sec. 46-63 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) *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.
- (d) *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.
- (e) *Food Truck Event* means a sponsored mobile food vending truck event which last a duration of no more than 3 days and allows for unlimited mobile food vendors to operate on public and private property so long as they meet the Village's ordinances for requirements on public and private property. Licenses are required.

**Division 2. License**



**Sec. 46-64 License required.**

No vendor shall engage in mobile food vending without a license from the Village Clerk authorizing such vending. The Village 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 ordinance.

**Sec. 46-65 Duration; non-transferability.**

Annual licenses may be issued by the Village Clerk expiring at the end of each calendar year. Any license issued under this chapter is non-transferable.

**Sec. 46-66 Application.**

Every vendor desiring to engage in mobile food vending shall make a written application to the Village Clerk for a license 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 all documentation, such as insurance, as required by the Village.

**Sec. 46-67 Fees.**

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

**Sec. 46-68 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 Village owned or controlled property, vendor may only locate on such property in locations as established by a resolution adopted by the Village Council. All mobile food vending trucks operating by invitation at a community event (approved by council), whether on public or private property, will be required to obtain the appropriate license(s) and pay the fee established by resolution of the Village Council. No mobile food vending trucks are allowed to operate on Village property during council approved Village events unless invited by 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 Village.
- (6) Vendors must comply with the Village's Nuisance Ordinance, Sign Ordinance and all other City 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 (3)

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 Village Council.
- (10) A licensed mobile food vending unit may remain in a designated location for no more than 4 days at a given time and must be removed at least 24hrs before returning.
- (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 Village street, alley or sidewalk.
- (12) Operation of mobile food vending trucks may only operate in non-residential zones and comply with all set-back regulations.

**Sec. 46-69 Duties of police.**

Police officers of the village shall require any vender operating, and who is not known by such officers to be duly licensed, to produce his vendor's license and shall enforce this article against any person found to be violating any of the provisions of this article.

**Sec. 46-70 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. 46-71 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. 46-72 Revocation.**

(a) The Village 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.

(b) Immediately upon such revocation, the Village 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. 46-73 Complaints; appeals.**

If a written complaint is filed with the Village Clerk alleging a food vendor has violated the provisions of this chapter, the Village 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 Village 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 Village 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 Village Manager. The Village Manager shall make a written determination, after presentation by the applicant

and investigation by the Village Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the Village Manager determines that such grounds are supported by a preponderance of the evidence, the action of Village Clerk or filing of the complaint shall be sustained and the applicant may appeal the Village Manager's decision to a court of competent jurisdiction.

**Sec. 46-74 Violation and Penalty.**

A violation of this chapter is responsible for a municipal civil infraction and subject to fines as established by Village Council.

**Sec. 46-75 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.

**Sec. 46-76 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.

**Sec. 46-77 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.

**Effect.**

This ordinance shall take effect twenty-one (21) days following its adoption and publication as provided by the Village Charter.

Adopted, enacted and ordained by the Village of Lexington Council on this 21<sup>st</sup> day of October 2019

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Kristen Kaatz  
Village President

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Beth Grohman  
Village Clerk

VILLAGES OF LEXINGTON  
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**RESOLUTION NO. 2019-09**

**A RESOLUTION ESTABLISHING AN ORDINANCE AND REGULATIONS ASSOCIATED WITH MOBILE FOOD VENDING**

WHEREAS, at the direction of Village Council, the Village Ad Hoc committee was asked to research leading practices and make recommendations on possible regulations pertaining to mobile food vending businesses within the Village of Lexington; and

WHEREAS, the Village Council established an Ad Hoc committee that listened to local representatives of food trucks and brick and mortar businesses and studied several examples of ordinances from communities who have successfully implemented mobile food vending programs in their communities; and

WHEREAS, the Ad Hoc committee recommended mobile food truck regulations and possible sites to locate food trucks on public property; and

WHEREAS, the Village's Ad Hoc felt that business regulations were the appropriate mechanism for regulating food trucks and recommended draft language amending Chapter 46 Article III of the Code of Ordinances, after hearing no opposition to the draft regulations and proposed sites; and

WHEREAS, the Village Council has taken public comments and discussed various aspects of the proposed food vending ordinance including possible public sites and fee schedules associated with mobile food vending;

NOW THEREFORE BE IT RESOLVED that the Village of Lexington Council hereby adopts Ordinance Chapter 46, Article III and sets the following rules and fee schedules.

**MOBILE FOOD VENDING POLICY**

Vendors shall obtain both a business license as well as a mobile food vending license from the Village Clerk in accordance with the Village Code.

Vendors shall pay the following pertinent fees annually with each mobile food vending license expiring at the end of the calendar year on December 31.

If vending on Village property:	\$400.00 annually
If vending on private property:	\$100.00 annually
If vending on public property:	\$40.00 daily
If vending on private property:	\$25.00 daily

Vendors shall be required to comply with all Federal, State and local regulations including. Chapter 46, Article III, Sections 46-63-46-77 of the Village of Lexington General Code of Ordinances

The Village shall allow up to two mobile food vending trucks in each of the designated areas within Tierney Park and Lester St. Park for a total of up to 4 food vending trucks on Village property at a given time. The Village will also permit up to 4 vending trucks to be operating on private property during a given time.

Use of the aforementioned sites on Village property shall be on a "first come first serve basis". This ordinance will be reviewed annually to ensure it is best facilitating the needs of the Village.

NOW THEREFORE, BE IT RESOLVED that the Village of Lexington approves Chapter 46, Article III, Sections 46-63-46-77 along with the established fee schedule and designated Village owned sites.

State of Michigan  
County of Sanilac  
Village of Lexington

I, Beth Grohman, Clerk of the Village of Lexington, do hereby certify that the foregoing is a true copy of a resolution adopted by the Village Council of the Village of Lexington on the 21<sup>st</sup> day of October, 2019 and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said Village of Lexington this 21<sup>st</sup> day of October, 2019

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Beth Grohman, Village Clerk