

VILLAGE OF LEXINGTON (810) 359-8631

SPECIAL COUNCIL MEETING

VILLAGE HALL 7227 HURON AVENUE, LEXINGTON, MI 48450

AGENDA

DATE OF MEETING: THURSDAY, JUNE 13, 2019

TIME OF MEETING: 5:00 P.M.

TYPE OF MEETING: SPECIAL COUNCIL MEETING

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT

BUSINESS:

1. Peddler's Ordinance - Discussion

PUBLIC COMMENT

ADJOURNMENT

Chapter 46 PEDDLERS AND SOLICITORS

ARTICLE I. *In General*

Sec. 46-1-46-30 *Reserved*

ARTICLE II. *Peddlers*

DIVISION 1. GENERALLY

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, 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 products/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 (Mel 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.
(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. 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.

(Ord. No. 81, § 2, 2-13-1984; Ord. No. 99-4, § 2, 8-29-1999)

Sec. 46-57. Excepted activities.

(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:

(a) Newspaper salespersons or delivery persons.

(b) Persons traveling on an established route at the request, expressed or implied of their customers.

(c) Salespersons calling on business establishments.

(d) 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.

Sec. 46-58. Application.

Applicants for a license under this ordinance must file with the village clerk 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;
- (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.

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.

(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.

The village clerk shall keep a permanent record of all licenses issued for three years. 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.

(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.

(Ord. No. 81, § 12, 2-13-1984)

CHAPTER 46 HAWKERS, PEDDLERS, AND SOLICITORS ORDINANCE

An Ordinance to regulate the business of the sale or solicitation of goods, merchandise, service or donations within the Village of Lexington, Sanilac County, Michigan, upon or from the public streets, parks and places and upon any public property; to provide penalties for the violation of such regulations; and to repeal all ordinances or parts of ordinances in conflict

Article 1. In General

Section 46-1-46-30 Reserved

Article II Hawkers, Peddlers, and Solicitors

Section 46-31 Definitions

SECTION 46-31. DEFINITIONS

A. The terms "hawking," "peddling," "vending," "door-to-door selling" or "soliciting" or any variation of the same shall be defined for the purpose of this Ordinance as any activity involving selling or soliciting. The sale of any goods, merchandise, services, or donations upon or from the public streets, parks and places or upon any public property

B. "Charitable/Religious Organization" shall be defined for the purposes of this Ordinance as a benevolent, educational, philanthropic, humane, patriotic or eleemosynary nonprofit organization of persons which solicit or obtain donations solicited from persons for benevolent, educational, philanthropic, humane, patriotic or eleemosynary purposes. This term shall also include any duly constituted religious organization no part of the income of which inures to the direct benefit of any individual if said organization has received a declaration of current tax exempt status from the United States.

C. "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 35.411 et seq.) who has provided a copy of said license to the Village of Lexington Clerk.

SECTION 46-32. LICENSE

A. Licensing required. No person, firm or corporation shall hereafter operate or engage in, either directly or indirectly, any business of hawking, peddling, vending, door-to-door selling or soliciting within the Village of Lexington without first obtaining a license therefor from the Village Clerk, which shall only be issued where the applicant qualifies therefor under the terms of this Ordinance. This requirement shall not apply to Charitable/Religious Organizations or appointed representatives soliciting donations on behalf of same.

B. Issuance of License. No such license shall be issued unless and until (a) the required license fee has been paid to the Village of Lexington; and (b) a written application therefor has been filed with said clerk accurately disclosing the following information:

1. Name and address of applicant.
2. Name and address of all individuals who will be hawking, peddling, vending, door-to-door selling or soliciting within the Village of Lexington on behalf of the applicant.
3. A list of products or services to be sold or solicited.
4. The area or place of solicitation.

5. A general description of the method of solicitation.
6. The particular hours each day and the dates when the business is proposed to be conducted within the Village of Lexington
7. Proper photo identification
8. If a vehicle is to be used, a description of the same, and the license plate number.
9. Must provide a copy of proper public liability and personal injury insurance in the amount of \$1,000,000.

C. Investigation. The Village Clerk shall forward such application to the Chief of Police, who shall cause an investigation to be made of the applicants character and business responsibility as he or she deems necessary for the protection of the public good. After such investigation, the Chief of Police shall endorse upon such application his or her approval or disapproval and forward the application to the Village Clerk. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall, in writing, state the reasons therefor and attach the same to the application.

D. Duration of License, Renewal. No license shall be issued for a period longer than three months. Successive licenses may be obtained upon the payment of the required license fee and the filing of any changes in the information shown on the original application, provided all the regulations herein contained have previously been fully complied with.

E. License Fee and Other Charges. The three-month license fee for a corporation, firm, partnership, association, organization, or individual shall be \$75.00 which shall cover all solicitors whose names are on file with the Village Clerk; and a similar thirty-day license therefor shall be \$25.00. Each licensee shall also pay a criminal investigation fee of \$25.00. Each licensee who requires access to water and electricity utilities shall pay a fee of \$20 for such use.

F. Exemption from License Fee Only. Any established competing business which sells a product and/or service at a permanent location within the Village with written consent of organizations sponsoring events approved by the Village Council, Veteran, or Charitable/Religious Organization (as defined in section 46-31) shall be exempt from payment of the license fee only. Those exempt from the license fee hereunder shall nonetheless be required to pay the aforementioned criminal investigation fee and, if applicable, the utility fee.

G. Exemption from Licensing. Those exempt from licensing include the following:

1. Newspaper salesperson/delivery.
2. Person traveling on an established route at the request, expressed or implied of their customers.
3. Salespersons calling on business establishments.
4. Any person under the age of 18 years of age when engaged in peddling on foot in the neighborhood of his/her residence under the direct supervision of any school or recognized charitable or religious organization.

H. Prior Criminal Conviction. No license shall be issued to any applicant who either (a) has been convicted of any criminal offense involving undue influence in solicitation, misrepresentation, or failure of disclosure of material information concerning the subject of solicitation or (b) whose employees or agents have been convicted of same.

I. Revocation of License. Any license may be revoked at any time by the Village Clerk or by the Village Board for any failure to comply with the terms of this Ordinance or for any conduct on the part of the applicant or his or its agents or employees involving misrepresentation or failure of disclosure of material information concerning the subject of solicitation.

SECTION 46-33. REGISTRATION OF CHARITABLE/RELIGIOUS ORGANIZATIONS

A. Registration of Charitable/Religious Organizations Required. No Charitable/Religious Organization may engage in any hawking, peddling, vending, door-to-door selling or solicitation unless the organization has first registered with the Village Clerk by filling out and filing with said a registration form disclosing the following information:

1. Name and address of applicant.
2. The area of place of solicitation.
3. A general description of the method of solicitation.
4. The particular hours each day and the dates when the business is supposed to be conducted within the Village of Lexington.

B. Duration of Registration. No such registration shall be effective for a period longer than two months. Successive registrations may be obtained by applying therefor in writing to the Village Clerk and by the filing of any changes in the information shown on the original registration form.

SECTION 46-34 PUBLIC SAFETY/PROHIBITED AND LIMITED ACTIVITIES

1. In no case shall a hawker, peddler or solicitor conduct their business from a public street or thoroughfare.
2. Any vendor selling food or drink items shall submit an updated Department of Public Health certificate when applying for a license in the Village of Lexington. No licensee shall sell or offer for sale any unsound, unripe or unwholesome food or drink or defective, faulty or deteriorated article of food.
3. No licensee shall sell their goods or wares within 200 feet of a village business that sells the same goods or wares.
4. No truckload style events shall be conducted on public property. Truckload style events held on private property must have written permission of the property owner and not exceed four consecutive days nor be held more than two times per calendar year.

SECTION 46-35. HOURS OF OPERATION

No hawking, peddling, vending, door-to-door selling or soliciting, including any such activity performed on behalf of a Charitable/Religious Organization, shall take place from the hours of 10 o'clock p.m. to 8 o'clock a.m.

SECTION 46-36. PENALTY

Any person convicted of violating or assisting in the violation of any provision of this Ordinance shall be subject to a fine of not more than two hundred fifty dollars (\$250). Each violation and every day upon which such violation shall occur shall be a separate offense.

46-37 EFFECTIVE DATE

This Ordinance shall become effective twenty-one (21) days after publication.

46-38-46-62 Reserved